

Western Foundations of the Caste System

Edited by
Martin Fárek, Dunkin Jalki,
Sufiya Pathan and Prakash Shah



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Martin Fárek • Dunkin Jalki • Sufiya Pathan • Prakash Shah
Editors

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1

Introduction: Caste Studies and the Apocryphal Elephant

Martin Fárek, Dunkin Jalki, Sufiya Pathan
and Prakash Shah

‘When thinking about India it is hard not to think of caste’, said Nicholas Dirks as the opening statement of his book *Castes of Mind* (Dirks 2001). Even though the book seemed to indicate some reservations about such a situation, neither the book, nor anything that has followed, has altered the situation. The study of India across disciplines has been significantly shaped and driven by the study of caste. Caste is still considered the ‘master

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key to unlocking the Indian world' (Guha 2013, 21). References to caste in literature about India go back at least to the sixteenth century. Thus, it certainly has a well-established lineage of scholarly interest and research.

Yet, there is a fundamental peculiarity in the status of caste studies today. There is a clear consensus about certain matters pertaining to the caste system. For instance, scholars are unanimous in their agreement on at least the following three matters: (a) the existence of the immoral caste system across India (or as some prefer, South Asia), albeit with some regional variations; (b) its persistence, or the failure to eradicate it in spite of concerted attempts by social reformers (from the Buddha's time down to the present!), the Indian State and any number of non-governmental organisations; and (c) its negative impact on several parameters of social justice.

The peculiarity emerges, however, when one notices that there is no consensus on a number of matters that cannot but form the basis for any understanding of the-caste-system. For instance, scholars have not reached any consensus on: (a) how castes are different from other kinds of human groups (i.e. how a group can be recognised or distinguished as a caste) and how they are to be classified; (b) how the caste system came into being and what sustains it; (c) the relation of the caste system to ordering social hierarchy; (d) the constitutive and necessary properties of the caste system; and (e) its relationship to social conflict.

While we cannot take up here the task of elucidating all of the fundamental disagreements in relation to caste, here is a brief overview of some of the basic and persistent problems that have cropped up in caste studies.

Nature of Caste and Its Classification

The problems over caste classification are at least as old as the first censuses conducted by the British government in India. In his *Memorandum on the Census of British India of 1871–72*, presented to the British Parliament in 1875, Henry Waterfield noted as follows:

Great pains have been taken by the writers of the several reports in the classification of the population according to caste. The result, however, is

not satisfactory, owing partly to the intrinsic difficulties of the subject, and partly to the absence of a uniform plan of classification, each writer adopting that which seemed to him best suited for the purpose. (Waterfield 1875)

For instance, the census officials of the nineteenth century found it next to impossible to distinguish between caste, tribe and nationality. Faced with such an obstacle, the census takers often incorporated all these categories as variations of caste in their data collection. In some places, caste was classified purely on the basis of occupation groups (for instance, in Madras). The classification of the employment groups as it was proposed was certainly influenced by background theories of caste, but the data collectors simply found it easier to sidestep the questions of trying to figure out which of the many group divisions respondents offered could be taken to be their caste. For some census officials it was impossible to map the innumerable caste divisions in any coherent fashion along the line of the four divisions, which were held to be the ‘principal castes’ or *varnas*.

One would assume that things have evolved a great deal since 1871–1872 (when the first all-India census was attempted), with all the scholarly attention that caste studies have received. Waterfield’s problems, we would expect, have been overcome and it is a different set of challenges that now bog caste studies. Surprisingly, that is not the case. In reviewing the Indian government’s decision to re-include caste as a category for census data collection Samarendra raised the alarm once again. ‘Colonial census officials, working with concepts of *varna* and *jati*, struggled unsuccessfully to define and classify these into castes on a single pan-India list, where each caste had to be discreet, homogeneous and enumerable.’ And yet, he noted further, we have ‘embark[ed] on a new caste census without having addressed many of these challenges’ (Samarendra 2011, 51).

Debates about how to understand *varna* and its relation to *jati* are still rife. Just like Waterfield and his colleagues did in the 1870s, we continue to debate the value of what is considered Manu’s classification of Indian society into the four *varnas*. We are yet to decide upon what the proper unit of caste is. Is it caste or sub-caste? What sounds to any Indian

language user who employs the word *jati*, as common sense is not even a half-serious question when we discuss caste in English and other European languages. That is, the referents of ‘jati’ and ‘caste’ are not uniform in all contexts where they are nonchalantly used as synonyms today in European languages (Fárek 2015; Jalki and Pathan 2015). A common usage of *jati* in Kannada, such as, *marada jati* and *jati naayi*, would constitute a category mistake when translated ‘literally’ into, say, English: ‘caste of a tree’, ‘a caste dog’. To make these expressions meaningful in translation, *jati* has to be understood as ‘type’, ‘category’, or ‘class’. Here is Samarendra again:

[I]n vernacular literature, we come across the Lohar and the Sonar jati (professional communities), the Maratha and the Bangla jati (linguistic or cultural communities), the Hindu and the Mussalman jati (putatively, religious communities), the Munda and the Oraon jati (communities presently registered in the government documents as tribes), the Vaidya and the Bhumihaar jati (communities which are endogamous), *mardon ki jat* and *aurat jat* (community of men and community of women), etc. Jati thus denotes professional, regional, linguistic, religious, only locally recognisable and even gendered communities. (Samarendra 2011, 52)

Thus, *jati* refers to an entity that is neither discreet nor homogeneous. As a result, we are bound to fail in our attempts to use this as a unit of caste classification. Those who favour *varna* as the mode of classification face an even worse fate.¹ Not only is it impossible to get any clear correlation between sets of *jatis* and *varnas*, with *jatis* constantly disputing which *varna* they belong to, the added complication is that we currently have no idea how to deal with the textual sources which were taken to be the source of the theory of *varna*. For instance, there is no consensus on the status of the *Manava-dharmashastra* or other such texts, which formed the main textual corpus supporting the theory of *varna* classification as the caste system in early Indological study. While some census officials suggested Manu had simply invented the four *varna* description and

¹ For a discussion about how *gotra* further complicates these matters, especially in relation to seeing castes as endogamous groups see, Jalki and Pathan (2015).

nothing like it had ever existed, other Orientalist scholars were compelled to discredit particular sections of these texts as being interpolations driven by later political agendas.

Current scholarship, however, has raised a whole new set of questions. It is now well-established that the nature of these texts and their role in the parent culture has been misunderstood (Balagangadhara 2005; Mani 1998). These texts are neither prescriptive nor do they hold any kind of sacred value nor do they have any pan-Indian significance. All of these assumptions were, however, prerequisites in the Orientalist arguments relying on these texts as the sources sanctioning the caste system.

What this basically means is that (a) we have been unable to say what caste is, or what kind of group is a caste ever since empirical studies about the caste system began; (b) we have simply been unable to find any reliable unit of classification for the caste system; (c) neither empirical research, nor textual sources are in a position to settle the difficulties in the area of classification of caste.

Origin and Propagation

In the introduction to an unpublished report on a project undertaken in 2001 to investigate some of the assumptions about the caste system, in Karnataka (India), S. N. Balagangadhara pointed out the following:

That the 'caste system' emerged as a full-blown social system, simultaneously all over India, some 3500 years ago is a sociological impossibility. It is equally unlikely that this system emerged simultaneously in several places and converged. To argue any of these is to transform 'the caste system' into a miraculous social organisation. No known (or conceivable) social mechanism can help explain any of the above theses. The only reasonable hypothesis is to assume that it emerged in some place at some time.

This assumption, however, has to solve many difficult questions if it has to play the role of a premise in a research study. How did it propagate itself? Because we are talking about 'the caste system' (in the singular), somebody or something must have enabled its propagation. The possibility that there

is no one single caste system, but many caste systems need not be entertained, at least until those who call upon to do so prove it.

If we now consider India of some 4000 years ago (the famous Purusha Sukta, the favourite piece of all Orientalists, Indologists, leftists, etc., is dated thereabouts), with vast distances separating the cities from each other, with huge differences in languages, it is a prerequisite (almost) that some central political, or administrative system imposed this system on society. We know this was not the case. Without such an imposition, however, there is no way, on heaven or on earth, that a system with the same four varnas, with the same four names (with an identical 'caste' of untouchables or whatever else), with an identically structured set of practices could come into being from the crest of the Himalayas in the North to the tip of Kanyakumari in the South. The vastness of the region, its multiplicity of languages and dialects, its diversity in practices make it impossible to conceive anything else based on what we know about human beings, societies, social organisations, etc. Yet, it is an established fact that neither the origin nor the propagation of 'the caste system' (let alone its reproduction) was due to the existence and efforts of a centralised system.

Instead of asking the question about the origin and propagation of 'the caste system,' the mainstream opinion on 'the caste system' simply assumes that 'the caste system' 'somehow' came into being (*deus ex machina*, as it were), somehow propagated itself, and that it holds the Indian culture as a hostage.

While it seems counter-intuitive for us today to entertain the suggestion that current theories of the origin and propagation of the caste system in India are simply untenable, this was not the case a 100 years ago. For instance, an anonymous reviewer of Elphinstone's *The History of India* (1841) notes:

The division into castes, . . . especially the relation of the Brahminical caste to the inferior orders of society, the more intimately we study its genius and the laws to which it was submitted, becomes a still more curious and inexplicable problem. It cannot be satisfactorily accounted for by the vulgar notion of an hereditary priesthood, a race perhaps of more highly civilised strangers, who have settled in the midst of barbarous hordes, have

imparted the arts and conveniences of life, have assumed or been welcomed under the character of messengers from heaven, and have therefore retained a kind of mediatorial power between man and his gods; who have kept the ministration in the temples and the custody of the sacred in their own hands, and maintained their dominion by the wealth and power which they have acquired from the homage or the fears of men.

It is by no means unintelligible that a sacerdotal aristocracy thus founded should maintain its own high character in the estimation of men by the severest discipline towards its members. . . . But the establishment of this singularly artificial political system over the vast region throughout which it seems to have prevailed in India constitutes at once the distinction and the difficulty. That one family should be invested in spiritual superiority, and that family grow into a sacerdotal tribe, which should preserve its sanctity among other tribes; that a conquering nation should bring its priesthood with it, and with its own enlarged dominion enlarge the sphere of their priestly dominion; that, even in a limited kingdom like that of Egypt, this growth of a foreign or a native hereditary hierarchy should take place – all this, though embarrassing, does not appear beyond our conception. But the Brahminical order appears as a nation within a nation, a nation not limited within narrow boundaries, but spreading over what we may almost call a continent. That society throughout so extensive a region – apparently without a capital or central government – as far as history, we will not say, but, tradition teaches, no single kingdom or republic, but an aggregate of numerous independent states and sovereignties – should thus fall into the same orderly subdivision of the people; that one class should set themselves apart as warriors, another as merchants and artisans, a third submit to the degradation of being, we say not slaves, but altogether a base and inferior class; and that over and aloof from all should stand this one gigantic hierarchy, stern to the utmost haughtiness and ferocity in the assertion of its own privileges, and at the same time severe in the exaction of a life, three parts of which were to be passed in austerity, under the humblest discipline, under a stern rejection of all the enjoyments and luxuries of earth; that one class should possess itself of a legislative authority strong enough to enact, whether by absolute edict or by admitted usage, these enduring decisions; and the others acquiesce, in unrepining patience, in the irrevocable order by which they were doomed to a subordinate position – (the pride of caste, which, according

both to Mr. Elphinstone and Mr. Wilson, adheres to the lowest, was probably the slow growth of a corporate spirit, or of party attachment): – all this seems to require a vast series of time for its entire and unquestioned development. (Anonymous 1841, 381–383)

There are many interesting aspects to this quote, but we limit ourselves here to raising one question in relation to it: what was a common sense question in relation to proposed theories of caste in the nineteenth century has turned into an unthinkable question to raise in the twenty-first century, in spite of the fact that no one has answered it. Can such a development really mark the growth of scientific knowledge in an area of study?

The only point of defence that was raised by Orientalists was to systematically date every reference to what they saw as the caste system in classical Indian texts as an extrapolation, which must have come at a much later date than the original dating of the text itself. Preferences for the dating of the extrapolations usually then went to periods of more consolidated pan-Indian sovereignties in order to ascribe to the king and the reigning political class the power of the central authority which was responsible for creating and upholding the system. Such an account has to then find some reasoning to account for why the ruling class would collude with the Brahmins, the authors of the caste system, in establishing such a system; what possible benefits there were to creating and upholding such a system; and why the system outlived the demise of these kingdoms with the onset of any number of invasions, rebellions and the fracturing into smaller kingdoms. In other words, conjecture rules the roost and, as the next section shows, current research does not provide adequate answers to any of these questions.

Relationship to Ordering Social Hierarchy

The quotes above already raise suspicion about how a small group of Brahmins, who are considered the prime motivators of the caste system, gained such success across the country. What pan-Indian institutions did

they have at their disposal? Who conferred such power and authority on one set of people? What made this currently extremely diverse group across India into one set in the first place?

Several scholars like Declan Quigley, Susan Bayly and Sumit Guha, do not go along with the idea that the Brahmins engineered the caste system. They are more inclined to say that state power colluded with dominant elements in the society, in some cases Brahmins, but also others in different territories, in order to generate a regionally varied caste system. Such scholarship calls for detailed historical investigation rather than making blanket assumptions about Brahminical dominance. However, such studies raise a fundamental problem. They cannot tell us why they are studies of the *caste system* at all.

For instance, Guha proposes that the Portuguese and later British colonial categories of caste were overlaid on to existing social categories. These were 'rigid birth derived categories' with 'mental and physical traits associated with them' that were native to the land and extremely ancient (Guha 2013, 25–26). He discredits the idea that a Brahminical class systematically coerced people into taking up these categories since such a hypothesis does not explain how birth-derived hierarchies (or the caste system) make their appearance even within the Semitic religions as they developed in India, especially Islam. Thus, Guha, endorsing the claims of Susan Bayly and to some extent Declan Quigley before him, presents a picture of a 'complex' system of state power and caste categorisation with many regional variations, but native to the land nonetheless.

But here is the question Guha fails to answer. He finds evidence for social categorisations based on birth in ancient South Asia. There is, however, ample evidence all over the world for social categorisations based on birth in the same period (see, De Roover and Fárek's contributions to this volume). What makes such categorisations evidence for caste system in India, but not in England for instance? Again, this is a question that did preoccupy the nineteenth-century writers on caste, has not found any adequate answers and yet has been buried in current discourse on caste. For instance, Reginald Heber, who served as Bishop of Calcutta (1814–1822) raised many of these questions and it was far from clear to him how caste was different from certain customs in Spain, America or the Western

world in general. Discussing the kinds of requests that Indian Christians made in relation to separate seating for some groups in Church and other such matters, Heber said the following:

Now it is desirable to know whether these are insisted on as *religious* or as merely *civil* distinctions; whether as arising from a greater supposed purity and blessedness in the soodras over the pariahs; or whether they are not badges of nobility and ancient pedigree, such as those which in Spain, even among the poorest classes, divide the old Spaniards and Castilians from persons of mixed blood; – and in the United States of North America entirely excluded negroes and mulattoes, however free and wealthy, from familiar intercourse with the whites; also whether the Christians of high Caste adhere to these distinctions, as supposing that there is any *real value* in them, or merely out of fear to lose the society and respect of their neighbours and relations? . . . We all know, that in Europe, persons of noble birth or great fortune claim and possess precedence in our churches, and I have already observed, that the Whites take the same priority to themselves in America. But there is no reason for this but custom, inasmuch as a gentleman and a beggar are as much equal in God's sight as a soodra and a pariah. The reason why the Christian gentleman conforms to these rules is, because, by acting differently, he would lose influence with those of his own degree in society, and a soodra may say the same thing, and does say it. (Widow [of Reginald Heber] 1830, 2:376–377, italics in the original)

If Guha were to say that merely the nomenclature changes but the caste system, or ethnic categorisations, in some form or the other has characterised human societies across the world, he fails to address the question why colonial officials did not recognise the caste system in any form back home but saw it in clear terms in India. Obviously, the colonial authors writing about 'the caste system' saw the Indian social organisation as significantly different from that in Europe. These officials and Orientalists did not see it as a regionally varied system of birth-derived social categories emerging out of collusion between state power and locally dominant groups. Were they hallucinating when they saw the caste system as the rigid hierarchical structure that characterised Indian society? Were they simply blind to the genuine social organisation of caste? Or were they lying in order to create a picture of depravity

of the East? The studies that develop such accounts of caste seem compelled to attribute either cognitive deficiency or dishonesty to generations of Western authors.

Properties of the Caste System

None of the intensity of these debates recedes when we consider any of the other points of contention mentioned above. The properties of the caste system and which of them should be considered fundamental properties, which subsidiary properties, or even what property should be considered *the* constitutive property along which caste may be organised, opens a veritable minefield of dispute. From endogamy connected with the concept of race (G. S. Ghurye) to different conceptualisations of the role of ritual purity (M. N. Srinivas, Louis Dumont), to occupational division, to those who propose the presence of any one of a whole list of properties as sufficient (Sumit Guha), to those who seek an amalgamation of all but in no particular order or intensity (Declan Quigley), the field remains wide open with nothing to recommend one approach over another.

Should the lack of consensus about properties be considered unimportant? For instance, for long centuries before the rise of chemistry taught us that water is essentially H_2O , we knew that it is wet and colourless, that it quenches thirst, that it is essential for the growth of plants, etc. However, it is one thing to say that we can go about with (or without) caste in society without studying its properties and another to say that we do not require any understanding of the constitutive properties of the caste system in order to study it. Let us imagine that a colourless, tasteless liquid, which seems at first sight to be water, is discovered on Mars. Would it require chemical testing to establish whether this liquid is constituted as H_2O before we could say without a doubt that we have indeed discovered water on Mars? The scientific community could only agree that this was indeed the crucial test required. Similarly, if we ever hope to answer the questions raised in the previous section about how to distinguish the caste system from

other social systems in other parts of the world, we must be able to do more than to relegate it to a matter of nomenclature. That is, one cannot resolve the matter by saying – the caste system is a social system; the social system of the South Asian region is the caste system. This is a classic example of the fallacy of *petitio principii*. What is the ‘social system’ that is being referred to and how does one describe this ‘social system’ in terms other than the explanans, that is, ‘social system’ and its supposed equivalent in India or South Asia, the ‘caste system’?

As the quotation from Heber in the previous section indicates, these are not in any way new questions. While these questions have a long and complex trajectory, we can give only a very brief sense of the problems with this area here. One of the major hurdles in the discussion is that of all the properties ascribed to the caste system, none of them are unique to it. Hierarchy, purity-pollution, endogamy, occupational communities and any and all such properties have been and continue to be properties of several human social systems across the globe and continue to be produced in multiple social settings (even within India itself), that do not seem to have anything to do with the caste system. For instance, it would be very difficult to show that religious groups in India such as Muslims or Christians are not just as endogamous as any particular caste groups. Even further, it would be next to impossible to show by empirical study that religious groups, ethnic groups, national groups, class groups across the world are *not* largely endogamous units.²

Similarly, the contention that the caste system is the only system of hierarchy that is based solely on birth can neither be corroborated nor rejected under the current circumstances since some of the groupings that are referred to by the term *jati* are birth related, others are not. Besides this, sociologists have long noted that even where the categories are birth related, they do not mark a static designation in hierarchy. M. N. Srinivas’ famous term ‘Sanskritisation’ denotes precisely this fluidity amongst castes. Add to that the current political exigencies which make certificates of lower caste attractive in order to gain educational or

² For discussions of endogamy as a property of the ‘caste system’ see, Martin Fárek in this volume and Jalki and Pathan (2015).

employment benefits and we have simply no way of upholding the classical description of a static hierarchical caste system based on birth.

Thus the problems the current lack of understanding about the properties of the caste system lead us to are: which phenomena across the world may be productively studied as related to caste and which ones not, if none of the properties are unique? How do we establish that a particular property found in Indian society, which is also found in other societies across the world, is the result of the caste system and not of any other multiple social forces or organisations?

Some scholars propose to solve this problem by characterising the caste system as the only system that brings these properties together (Quigley 1993). Thus, the convergence of these various properties is the unique property of the caste system. However, this does not solve the problem because scholars are hard-pressed to show that these properties do indeed coexist wherever the caste system purportedly manifests itself. Thus, the only approach that allows caste scholars to continue their work is a sort of cafeteria approach whereby any and every property may be considered either essentially constitutive, or merely secondary, depending on no other justification but the preference of the scholar studying the area.

As we have already indicated above, attempts to build a defence for current scholarship on caste by admitting the proviso that knowledge of the caste system is not yet scientifically advanced enough to answer this question, but this should not stall studies of the phenomenon, cannot be admitted in any way as a sound apologia. For this simply leads us to the question: *which* phenomenon are they studying?

Relationship to Social Conflict

In the project report mentioned above, Balagangadhara also pointed out that:

almost all the discussions about the ‘caste system’ refer to or narrate (i) stories of discrimination about water wells; (ii) physical beatings; (iii) denial of entry into the temples; and (iv) ‘untouchability’. (It is not clear what the latter is about though.) . . . In discussions it is never clear whether

(a) the above four aspects are the empirical properties of 'the caste system' or whether (b) they are the causal consequences of 'the caste system.' If they are empirical properties, we need to ascertain whether they are the constitutive properties of the system or not. If they are constitutive properties, then the condemnation of 'the caste system' based on these properties could be justified. If they are, by contrast, secondary (or not necessary) properties, then the discussion will have to take an entirely different route.

However, if they are the consequences of 'the caste system', then 'the caste system' is something other than and different from these consequences, which are the themes of moral indignation. If they are the consequences, we need to know whether they are necessary consequences of 'the caste system.' If it turns out that these are not the necessary consequences of 'the caste system' or that other things generate these consequences severally, again, the discussion has to take a different route. These analyses involve a kind of theoretical research into 'the caste system,' and into its theories.

The confusion Balagangadhara points towards takes us back to the fact that a deep consensus coexists with deeply contested ideas about caste. In the case of the relationship between caste and social conflict, there is a clear conviction that a relationship necessarily exists and therefore this relationship must be fundamental to understanding caste. Yet, it is impossible in the current context, when no consensus exists in relation to the properties of the caste system, to say whether conflict is a *property* or a *consequence* of the caste system, let alone examine which property of the caste system leads to the consequence of social conflict, if we hold the latter viewpoint. For reasons of economy we will say less about this area of study here since the piece by Jalki and Pathan in this book also addresses questions about the current scholarship on caste atrocities and the data related to it.

The Argument so Far . . .

For a field of study that has enjoyed over four hundred years of attention, how do we reconcile the extent of scholarly attention caste has received, with the results, which leave even the basic questions unanswered? We cannot write it off to bad scholarship or to lack of interest since some of

the best scholars have devoted a lifetime of research to the area. We also cannot ascribe bad intentions to several generations of scholars across over 200 years. Then how do we understand the problem that an area of research, which has received so much attention, has shown such inadequate progress in knowledge? It is this question that sets off this volume.

One set of answers to the dissatisfaction raised in relation to the status of caste studies proposes that the caste system is such a complex social structure with so many regional variations and with evolutionary patterns that are so unpredictable, that it is impossible to reach a consensus about the fundamental properties of the caste system or caste relations in India. This defence, however, sidesteps one crucial question. If there cannot be a consensus in relation to fundamental properties of the caste system or to a story of how it evolved across India, how can we have reached a consensus on the first set of ideas: that there is a caste system in India, that it is oppressive towards the lower castes, and that it has been practically impossible to eradicate?

In other words, what we do not have any clear knowledge about is:

What is the basic unit of the caste system? *Jati*? *Varna*?

What constitutes this basic unit? Employment/race/ethnicity/nationality?

What are the fundamental properties of this basic unit?

How are the units related to each other? Or what forms the organising principle of the 'caste system'?

How did this system come into being?

What sustains it?

How does it resist the relentless attempts to destroy it?

What does this system serve to protect?

What we do know is the following:

The caste system is an ancient Indian social system.

It is hierarchical and oppressive.

This situation brings to mind an ancient story, albeit it requires that we raise a slightly different set of questions to the story. The story is that of the six blind men and the elephant. In the case of caste studies (as in the case of the

elephant), none of the blind men agree on the characteristics of the object that they have within their grasp, but curiously enough, each agrees there's an elephant in the room. The question is, how do they know it's an elephant?

Who Brought the Elephant into the Room?

There are scholars who have raised suspicions about the premises of caste studies before us. The most notable are the constructivists. Nicholas Dirks suggested that it was Orientalist/colonial scholarship that had constructed the notion of the caste system as it continues to be understood today. Dirks also suggested that through mechanisms of administration, especially the census, colonial officials had managed to create a means of generating a social organisation in India akin to their notions of the caste system by reorganising already existing elements but in ways that were different from the way these elements were arranged in pre-colonial India.³ This position is both interesting and dissatisfying.

It is interesting because it highlights an important point. The difficulties that colonial officials faced while attempting to fit available data to their classificatory scheme seems to indicate that their classificatory scheme was not quite suitable for the Indian reality. Yet, Dirks' assertion that they were successful in *implementing* the caste system as they saw it in India, is dissatisfying. What was it that the British implemented? A classificatory scheme or something else?

There are two problems with this assertion. One is its implausibility. How could the census using 'caste', which did not last longer than 60 years, from 1871 to 1931 to be precise, successfully 'create' the caste system in India? To make such a claim one would have to assume that in less than 60 years, Indian society could somehow be magically transformed merely by the implementation of a classificatory scheme. If indeed Indian society was so malleable, then we cannot account for the rise of

³ While it is not clear exactly what elements Dirks claims existed and what new elements were introduced, he does say, 'caste – at least in the areas of southern India that I had studied intensively – was profoundly embedded within political society, not at all as it has been portrayed in contemporary anthropological literature' (Dirks 2001, ix).

protests that Dirks himself documents.⁴ In addition, the colonial officials *failed* in their census attempts, in their own assessment of the situation. Yet, Dirks makes them out to be extraordinarily successful. What did the colonial officials see as their failure if their efforts were able to re-shape Indian reality? Why then did they discontinue the caste census?

The second problem is the lack of clarity about what it is that was implemented. If one takes Dirks' claim at the most concrete level of state classifications, these are invented and discarded constantly by states. For instance, definitions of the poverty line change periodically. They include more or less numbers of people within them. These people derive certain benefits if the definition includes them. Thus, state categorisation has the power to change social reality in this specific and limited sense. Yet, if all the caste system does is extend benefits to some and not to others, then what makes it more remarkable than other classifications like the ones that gives benefits to senior citizens or to members of the armed forces in India today? For instance, how do we understand the conviction that the caste system generates widespread conflict in Indian society if it is merely a state classificatory scheme? Are all conflicts related merely to contestations about state benefits? Surely this is not Dirks' claim since he himself documents a wide array of conflicts in the latter part of his book.

If one takes Dirks' claim in the wider sense in which he seems to make it, he seems to be claiming that a state classificatory scheme, flawed as it was, short-lived as it was, created a social order in India which has been extremely tenacious and extremely resistant to change. This brings us to the same kinds of logical questions about what sustains the caste system that we encountered in the earlier section. There is, however, another way of dealing with the problem Dirks grapples with and a whole set of alternative questions that may be raised.

⁴ 'Caste associations sprung up to contest their alleged position in the official hierarchy, holding meetings, writing petitions and organising protests. By 1931 some caste groups were distributing handbills to their fellow caste members to tell them how to answer questions about their religious and sectarian affiliations, as also their race, language and caste status. After 1931, the British could no longer ignore the political fallout of the census, and abandoned the use of caste for census counting altogether' (Dirks 2001, 48).

Balagangadhara proposes that the ‘caste system’ names the structure that the British tried to develop using different criteria none of which worked in ordering and classifying the data they assembled.⁵ That is to say, the British failed in classifying data (which they collected) about marriage, commensality, profession, entry into temples, accepting water, etc. into a single structure, whose units carried indigenous *jati* names. Of course, this failure does not unequivocally tell us anything except that ‘the caste system’ names the classificatory structure the British tried to develop. In what sense can we then fruitfully speak about the colonial ‘construction’ of the caste system? The only question one could justifiably ask is this: why the obsession in collecting all kinds of data, order and classify them in one single scheme? How could such a classification tell them anything about the structure(s) in the social world? Why did they believe that these snippets of information had something to do with the social organisation?

In addition, the British gave up this way of organising their census reports because it was not useful for their purposes any more. That is why one can raise the question which Dirks does not pose: why did the British need to build a ‘caste system’ for their purposes of collecting revenue and rule over India? After all, the Muslims also collected revenues and ruled over India without creating such a classificatory scheme. It is in the difference between these two colonial rulers that we will find a partial solution to the puzzle of ‘the caste system’. We will have to look elsewhere than in ‘power/knowledge’ relation to find answers: we will have to look at the Western culture. This volume seeks to take the first steps in this direction.

The Nature of the Elephant in the Room

The problems that the above discussion has raised are the following:

- Foundational questions about the caste system have found no adequate answers in spite of the fact that they have been raised since the

⁵ Reference here is to Balagangadhara’s unpublished writings.

nineteenth century. In fact, contemporary studies, instead of engaging and tackling these questions often sidestep them.

- There is a consensus on particular matters in relation to the study of the caste system. Yet, it is logically impossible to reach a consensus on these matters without first having some kind of consensus on the matters which are under dispute.
- It would also seem as if these points of consensus – that there is a caste system and it is oppressive, for instance – act as constraints on what we can or cannot say about the caste system. These constraints operate even within theories about the caste system that seem to vary drastically, that is, those that say it is an ancient Indian system to those that say that it is a colonial product. This is the only way we can understand why scholars like Dirks are compelled to hold on to the idea that the caste system exists, in spite of raising doubts about its genesis.

It follows, therefore, that instead of studying the caste system, we should attempt to study what has generated this consensus on the caste system and why it works within particular constraints. Nothing in the field of caste studies today has anything but tangential answers to such a question. For instance, Dirks suggests that the Orientalist scholars, colonial administrators and Brahmin informants colluded in creating the caste system. They indulged in 'textualist' theories which did not reflect the empirical situation. However, such answers must rely, at some level or another, on imputing bad intentions to the participants of this process. For instance, the Brahmins are imputed to have bad intentions when they report on the texts in a manner beneficial to their class; or the colonial administrators must be imputed to have bad intentions when they see the caste system in India based on birth-ranking but fail to see similar systems in their home countries as caste systems. Explanations which rely on imputing intentions to a group (that too across a fairly long period of history) are necessarily weak explanations. If an account about how the consensus on the caste system emerged can do so without imputing bad intentions to any of the participants, such an account would obviously have stronger explanatory potential.

Such an account is available from the research programme developed by S. N. Balagangadhara over the past four decades. He proposes that it

is indeed possible to study why Western observers saw the caste system without discrediting them, while at the same time denying any truth status to the claim that there is such a caste system that existed in India then or now. This research programme not only answers extremely important questions without resorting to any speculation on intentions, but also makes possible the elimination of anomalies generated over two centuries of caste research. It does so by showing that these anomalies cannot be resolved by greater empirical research into Indian practices or social functioning, but that they can be understood if one investigates the background framework of ideas that the West brought to its study of India.

In other words, Balagangadhara proposes that, the caste system, the phenomenon constructed by the West, is an experiential entity only to the West and not to Indians. In this sense, the caste system has no existence outside of the Western experience of India. In order to uncover what generated this description of Indian society, we therefore need to understand the background assumptions that the West used to understand India.

When Christian missionaries and travellers landed in the coastal cities of India and visited other cities and states inland each was able to see ‘the caste system’ in India immediately. Instead of imputing to these observers either some uniform attitude of superiority or an intention to paint the Indians as immoral, can one account for why they did indeed see the caste system in India? Jakob De Roover notes,

When the British colonizers began to classify the Indian population, they did so according to the patterns identified by two centuries of European descriptions of India. They did not construct Hinduism or the caste system as categories to organize and control Indian society. Rather, their classification reflected the patterns of their cultural experience of India. So, to gain insights into the nature of Hinduism and the caste system, we need to examine the shaping forces and dynamics of the Western culture, which compelled it to see India in this way.⁶

⁶ This is from a post made on the yahoo forum formed to discuss Balagangadhara’s book *The Heathen in his Blindness* in 2003. Many of the points raised in this Introduction were first raised in discussions that took place on this forum over the past 13 years. For this particular post see <https://beta.groups.yahoo.com/neo/groups/TheHeathenInHisBlindness/conversations/messages/2859>.

Balagangadhara's research programme has developed a two-fold focus in order to accomplish this task: (1) identifying the cognitive limits within which the West's descriptions of itself and of non-Western cultures operate and (2) starting to develop alternative descriptions of the West and of non-Western cultures. Both these tasks were explicitly formulated and successfully undertaken in S. N. Balagangadhara's seminal work *'The Heathen in His Blindness...'* *Asia, the West, and the Dynamic of Religion* (1994; 2nd ed., 2005).

Before we proceed further, there are some issues that need to be clarified. The authors writing in this book do not deny the existence of *jatis*. It is an undeniable fact that there are *jatis* in India, such as Lingayat, Paraya, Kamma, Jaat and innumerable others. That is to say, there are people in India who claim that they belong to some or another 'caste group', even if they do not know what 'caste' is and in what sense their group is a 'caste'. This is a sociological 'fact'.

Denying the existence of the notion of the caste system does not imply that those facts (beliefs, practices, texts, etc.) that went into the construction of the 'caste system' do not exist. What one denies is that these (taken together) constitute a phenomenon called the 'caste system'. In other words, we do not suggest that the West described the Indian 'caste system' wrongly but that, because of their specific cultural experience, the Western descriptions tied together a series of discreet elements and transformed them into one distinct and unified phenomenon. If the caste system had been described wrongly, our task would merely be to give a better description of the caste system, of the facts that constitute the caste system and of the relation between those facts. However, all attempts to give a better description of the caste system have failed to answer some of the most fundamental questions, which are both empirical and conceptual in nature: why do Indians not know the caste laws? How can the caste system exist if no central authority exists to ensure its survival? How come no one can empirically show the existence of a clear-cut caste hierarchy? Thus, hammering away at generating seemingly 'better' accounts of the caste system simply will not yield the desired results. In this situation, it is certainly desirable to find a completely new alternative approach to understanding the Indian reality. However, if we do not first pay attention to understanding what generated the currently

dominant account, we will not be able to understand the constraints under which this theoretical framework emerged and are therefore likely to continue to reproduce these constraints in some form or the other. Therefore, the first step we need to take is to unearth the theoretical framework that has structured this Western cultural experience of India.

Structure of the Book

This book is meant to open up a new area as a field of research: the Western and Christian roots of the so-called caste system. The chapters cover both conceptual and empirical arguments. The conceptual arguments included here attempt to unpack the complex called the-caste-system. They deal with the internal inconsistencies, conceptual ambiguities and conflicts with other theories in the accounts of the caste system. The empirical arguments, which raise substantive questions about some of the key objects that constitute the domain of inquiry of caste studies, such as caste violence and 'social justice', deal both with ethnographic and historical data.

The book is divided into two parts. The essays that form the first part are largely devoted to raising anomalies within the dominant account of the caste system and the consequences of ignoring these anomalies. They talk, as it were, about the elephant in the room and press us to recognise the problems that caste studies today actively tends to brush under the carpet. The essays that form the second part of the book also often raise anomalies within the dominant account of the caste system, but focus on unearthing the background Western Christian framework that was responsible for generating the dominant account about the Indian caste system.

A thread running through the first three chapters (which form the first part of the book) is that claims about the justifications for legislating on caste reservations, discrimination and violence, and consequent claims about the nature of caste-based violence, atrocities and discrimination, actually cannot be supported. And yet they continue to be made with apparent conviction and sincerity. This shows that there is something

seriously wrong with the talk – popular and academic – on caste, which seems to be based on a set of beliefs and presuppositions rather than on an empirical situation.

In [Chapter 2](#) Balangadhara picks up on the oft-encountered claim today made by some in the judiciary, most intellectuals and all the Ambedkarites in India that caste-based reservations in India were justified in normative terms by the framers of the Indian Constitution who used the term ‘social justice’ when they discussed and voted for the Constitution. It is thus that Patels, in their campaign for reservations in Gujarat, are criticised on grounds of social justice as an undeserving social group. Going through the speeches in the Constituent Assembly, however, reveals that at best those using ‘social justice’ meant it in an evaluative sense – that is, as a standard against which one may measure empirical achievements – and not normatively. One of the implications of Balangadhara’s expositions in his chapter is that arguments demanding caste-based reservation are an expression of political expediency or a psychological tool to allay suspicions of some communities (or both) but that it was not defended on moral grounds. It is therefore up to the pro-caste-reservation scholars to defend their arguments on sound conceptual grounds.

Examining the intellectual currents involved in the debate on social justice, Balangadhara shows that there was only one absolutely dominant force in the first half of the twentieth century using the idea of social justice normatively. These were Christians in general and Catholic Christians in particular. The idea thus made normative sense if and only if the truth of Christian theology was presupposed. Given that the members of the Constituent Assembly using social justice were not Christians, the group of some members of the judiciary, most of the academic intellectuals and all the Ambedkarites imply the opposite, that is, that normative Christian theological ideas were available and intelligible to those using the term at the time of the drafting of the Indian Constitution. In so doing, they implicitly suggest that the framers of the Indian Constitution were immoral and indulged in massive deception and duplicity. Balangadhara also raises questions about why and how contemporary intellectuals are engaged in the effort of justifying caste-based reservations on normative grounds of social justice.

In [Chapter 3](#) Jalki and Pathan raise the problem of anomalies regarding claims of caste atrocities and violence that are prevalent in popular media, within governmental, inter-governmental and non-governmental bodies. Their study is all the more critical since, as they point out, within less than a decade, the expenditure related to ‘compensation’ paid under one piece of legislation – the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 – has increased fourfold although there is no clarity on what constitutes caste violence and therefore, what measures could curb it. As they point out, legal provisions on caste are placed on the same plane: as one long struggle against the same set of circumstances loosely called the caste system and the violence it generates. Yet, the enthusiasm for new laws has not been matched with new insights, and as a result, at the most fundamental level, we remain unable to establish how we should define caste violence.

In particular, Jalki and Pathan take up the claim made with unanimity that caste violence is extremely widespread and that the lower castes face *greater* violence in Indian society than any other groups and thus also the entrenched conviction that the caste system generates atrocities in India. Noting some doubts about ‘soft data’ on caste atrocities they analyse the quality of hard data on caste violence and atrocities. They make the striking observation that the idea of widespread caste atrocities is not drawn on the basis of the data available about crime and atrocities in India. They argue that the only way to understand the claim about the high level of atrocities and violence is that it is an *a priori* claim, not a conclusion derived from empirical investigation. Therefore, as Balagangadhara (1994, 2012) previously argued, it constitutes one of the elements of an inherited narrative about the caste system.

The findings by Jalki and Pathan can be shown to apply *mutatis mutandis* to the situation of Britain where, in 2010, a provision on caste was introduced into the statute book. This provision appears in the Equality Act 2010 and so, unlike the situation in India, which is characterised by the criminal law approach discussed by Jalki and Pathan and reservations discussed here by Balagangadhara, the current British approach relies on having caste as part of the civil, anti-discrimination law. In [Chapter 4](#) Prakash Shah attempts to explain the handling of the caste discrimination question in UK law. He argues that legislators

have shown a lack of awareness of the differences between legislation in India and the wider South Asian region, on the one hand, and the British Equality Act model, on the other. Despite these differences, and despite lack of knowledge of them, the existence of laws in the former set of countries has been used as a justification for legislation to be enacted in the UK too. Throughout the chapter, we see evidence of the tawdry ways in which research about caste discrimination is conducted and how evidence allegedly confirming such discrimination is generated and handled by both parliamentarians and, perhaps even worse, by academics and researchers.

Even though research has been unable to demonstrate a need for legislating, it has been misrepresented to tell the opposite story, that is, to justify legislating against caste discrimination. Similarly, we see several ways in which allegations of caste discrimination are falsely founded, occasionally brought through the courts and in turn disingenuously used to make claims about the need for legislating. This chapter conclusively shows that without any evidence of caste discrimination, the case law that is also touted as proof positive of the existence of such discrimination has, in fact, been a kind of show trial. In the background is the overwhelming presence of what Jalki and Pathan refer to as the ‘classical conception’ of the Indian or Hindu caste system acting as a guiding principle to conduct research, to interpret results, to justify legislation, to conduct litigation and to allocate costs. This chapter thus supports one of the central claims of this book, which is that the normative conception of the caste system is a presupposition that also acts as the explanation of facts about Indian culture and society, which now encompasses the Indian diaspora. In other words, isolated facts are brought together and marshaled to act a proof positive for the existence of the caste system, although the making of such claims would be impossible unless underlying ideas about the caste system are also presupposed.

In the second part of the book, there are three chapters that begin the process of illuminating the Western foundations of the idea of the caste system while also raising sharp critiques to the way that elements in Indian history have been interpreted, thanks to the over-arching influence of the idea of the caste system.

In [Chapter 5](#), Fárek contests the widespread idea of one large anti-caste and especially anti-*brahmanical* movement in Indian history.

Typically, older ascetic traditions such as the Buddhist or Jain, and later *bhakti* traditions are portrayed as egalitarian movements with an anti-caste agenda that Fárek terms the ‘uniting anti-caste hypothesis’. Yet, a closer examination of the relevant scholarly works reveals serious problems with such a claim: (1) there is no consensus on the early Buddhist position towards *brahmanas* and castes (2) scholars who described *bhakti* traditions as anti-caste and anti-*brahmanical*, usually added that these traditions, in fact, did not attempt to change the caste system. An examination of the Vaishnava tradition shows that just the opposite conclusion is much more plausible. These Indian traditions spoke highly of the ‘true *brahmana*’ and they even created new castes of their own. Building upon arguments presented by S.N. Balagangadhara, Fárek comes to the conclusion that both the early Buddhists and later Vaishnavas supported and upheld *brahmanas* and considered *varna-dharma* to be the best form of society.

In the second part of the chapter, the author presents an overview of problems we have with the characteristics of caste, with a focus on endogamy. Fárek suggests that the religious explanation of caste as an endogamous unit has its roots in the Early Modern encounters between Portuguese colonisers and Indian society. During this era, a strict endogamous policy was implemented in the empires of Portugal and Spain, which clearly distinguished between different groups called *casta*. Different groups in India were understood in this sense as analogous religious units, divided by rules of endogamy. This idea found its way into the common sense understanding of India from the European point of view and finally, acquired the status of a neutral explanation in the course of the nineteenth century.

Taking Fárek’s idea further (that there has not been a moral criticism of the caste system in indigenous Indian movements), in [Chapter 6](#), De Roover shows that the proposition that the caste system is an immoral system depends on its characterisation as a religious rather than a civil institution. De Roover proposes that in the currently dominant discourse about Indian society, the caste system appears as an immoral social structure, which compels the Hindus to discriminate and dehumanise lower castes. Thus, this social system is supposed to impose immoral injunctions as moral obligations. De Roover raises the question

how this implausible conception of the caste system crystallised in the European understanding of India. He argues that the Old Testament account of the Jewish nation and religion became the framework for describing the people and religion of 'the Gentiles' or 'Hindus' in India. The Hindus were viewed as a nation divided into a hierarchy of tribes and united by one religion dominated by the tribe of the priesthood and its privileges (the Brahmins). In the course of the nineteenth century, Protestant authors came to the conclusion that caste was a religious institution rather than a civil one: this institution and its priesthood deceitfully imposed the civil laws of a nation as religious obligations of divine origin. Consequently, more and more authors conceptualised caste as an immoral social structure founded in false religion. Ironically, therefore, if one hopes to understand the religious foundations of the Indian caste system, we must really undertake an investigation not into Hindu practices or beliefs, but the Christian theological background that went into the construction of 'Hinduism'. If we were to discard the overtly biblical elements from these nineteenth-century missionary descriptions, it would become quasi impossible to distinguish them from the contemporary discourse of anti-caste academics and activists.

In [Chapter 7](#) Marianne Keppens begins by noting how over the last century or two, the dominant accounts of the caste system have looked for its roots in the ancient history of India. More precisely, scholars have linked the origin of the caste system to the invasion of a Sanskrit-speaking people, the Aryans, who are said to have imposed their language, religion and social structure on an indigenous population called the Dravidians. The Dravidians, in this account, were subjugated by the Aryans and made to have an inferior place in society as the lowest caste. Given the importance of the Aryan invasion theory in our understanding of the caste system, this chapter looks into the literature on how this invasion and subjugation actually took place and what evidence is available for it. This analysis leads to the conclusion that hardly any or no evidence exists for the claim that the caste system originated as the result of an Aryan invasion.

Keppens' investigation reveals how the search for a 'people' who made India their homeland was spearheaded by Christian interest in tracing all human groups to the biblical narrative of Noah and his sons. This crystallised into the idea of 'the Hindu conquest of India', which

was developed further in the nineteenth century purely in order to support existing notions about the caste system. Thus, it was not sociological or historical evidence that gave life to this idea, but the fact that without this hypothesis the dominant idea of the caste system where a set of 'upper castes' were purported to be in a position of eternal superiority as against a set of 'lower castes', was rendered implausible. Thus, the Aryan invasion theory gained support and interest because of the crucial role it played in sustaining the Orientalist story of the caste system. The chapter raises some crucial questions for further research into the Western conception of the caste system by drawing attention to the nature of 'inequality' that was posited in relation to the caste system. Keppens shows that the caste system was not criticised as generating a problem of inequality based on birth in general. For instance, the hierarchy amongst the three 'upper castes' did not bother scholars engaged in the question of caste. It was only the position of the so-called lower castes in relation to the 'upper castes' and the conviction that this 'social inequality' consisted of barring the 'lower castes' from civil and religious institutions that these scholars had problems with. Thus, Keppens' work serves to raise doubts about whether contemporary research into caste has been able to grasp, let alone reconstruct, the background assumptions that lent coherence and conviction to nineteenth century and earlier compulsions in the Western world to posit the existence of a caste system in India.

In Sum . . .

This book, as it must be clear by now, is meant to encourage further research in the new field that it tries to establish. It is part of a concerted effort to bring caste under scientific scrutiny. Taking off from the research insights of S. N. Balagangadhara, who has been critiquing the Orientalist roots of scholarship on India, the book attempts to show how the caste system became one building block in a much larger Orientalist story about Indian history, which remains the only story about India available today. The main hypothesis is that the dominant descriptions we have today are results of originally Christian themes and questions;

they reflect European historical experiences and European thinking about society much more than the real state of society and its domestic understanding in India.

The arguments presented in the book are not, thus, just about the caste system. They are also about the much larger questions of how we have constituted social sciences, India studies and therefore the very issues that have shaped our modern self-images. It is absolutely crucial that after centuries of misconceptions and even down-right lies, we begin a journey towards a scientific understanding of the Indian reality, towards the truth.

Editors

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Caste-Based Reservation and Social Justice in India

S. N. Balagangadhara

One of the *strangest* things I have heard in India is this: ‘caste-based reservation is a socially just policy’.¹ One might ask, ‘What is strange about it?’ In one sense, the answer is obvious. Some in the Indian judiciary, most academic intellectuals and all the Ambedkarites in India attempt to defend caste-based reservation in moral terms. Recently, when the Patels in Gujarat rose up massively, many in India challenged the legitimacy of the demands of the Patel community by saying that they did not *morally deserve* what they were demanding.² Such criticisms have bite, if and only if the caste-based reservation that is *foreseen in the Constitution of India* is based on moral grounds and entry

¹ For just a few examples of such claims, see Ranjithkumar (2013) and Santhosh Kumar (2008), and umpteen popular articles like, Agarwal (2014). Note: All links to the electronic sources provided in the article were last accessed on May 9, 2016. All footnotes of this chapter are added by the editors.

² See, for example, Deshpande (2015), Gavaskar (2015), Zahir (2015) and Mehta (2015).

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into that system requires satisfying some or another set of *moral criteria*. These criteria must be moral in nature because one of the recurring criticisms about the Patels was that they were resorting to agitation and exerting political pressure in order to gain benefits from the reservation system. Many were morally horrified by the possibility that Patels in Gujarat would succeed; because, if they did, these people felt that it would undercut the very foundation and the *raison d'être* of caste-based reservation. It is this that made the situation morally horrifying to them. However, no serious arguments explaining their moral horror were forthcoming. This, then, is the obvious strangeness: *how could these people make moral judgements without feeling the need to justify the grounds of such judgements?* But I need to warn you that the direction we will be impelled to travel, while seeking an answer to the question, is as unpleasant as it is unpalatable. But first, we need facts and reasons to answer this question. In this chapter, I will try to provide both.

However, the foregoing remarks do not quite explicate what it means to speak of the 'strangest' thing in this regard. For now, I will only *partially* explicate the reasons why I speak of the 'strangest'. As a prelude though, I would like to say that the 'strangeness' is not about whether the idea of 'social justice' is coherent or not. Nor does it involve defending or attacking the current reservation policy. It is not even about the regularly unfulfilled constitutional requirement to periodically undertake a nationwide empirical study of this policy to find out what its effects are and whether it fulfils the expectations of the framers of the Indian Constitution. Finally, it is also not about the 'real reasons' why the politicians in the Indian Parliament unanimously, if routinely, extend the life of this policy *sine die*. The cognitive question regarding the strangeness I speak about is deceptively simple: what, if any, are the conceptual relationships between social justice and caste-based reservation?

The deceptive simplicity of the above question lies in its nested nature. That is to say, it consists of many other sub-questions such as, is 'social justice' a normative concept that, when suitably embedded in a coherent and consistent theory, provides a moral defence of the caste-based reservation system? Can this notion of social justice, as it is often used in India, be put to do foundational work in the sense of

providing a ‘just’ foundation for Indian society? Is the caste-based reservation system a social and moral reparation for the injustices and atrocities committed by earlier generations in India? Is it, in this sense, the Indian moral equivalent of the principle of reverse discrimination, as some academics claim?³ And so on. In this short piece, I will not be able to tackle these and other questions. I raise them nonetheless because of their close inter-connections to each other and to the theme of this particular chapter.

This chapter is merely indicative in nature, leaving further elaborations to other times and places. However, this does not mean that I am dumbing down ideas in order to seek popularity. On the contrary. As you will discover, one has to put in some intellectual effort to follow my arguments. In this sense, I presuppose an intelligent audience with some moral and intellectual integrity as my public.

I

I will begin by looking at some of the debates that occurred within the confines of the Constituent Assembly, which drafted the Indian Constitution.⁴ Perhaps, it is good to keep in mind why. One of the basic maxims in Law is that where the wordings of the statutes allow for disagreement, there one has to seek out the intentions of the lawgiver.⁵ However, in doing so, one is not looking for possible psychological motives of the lawgiver. Such psychological considerations have no role

³ As an example see, Ashwini Deshpande (2006). This stand is reproduced in practically every international report.

⁴ Constituent Assembly Debates (CAD) December 9, 1946 to January 24, 1950, are available online at <http://parliamentofindia.nic.in/ls/debates/debates.htm>. References to the debate are cited in-text with the date of the Constituent Assembly proceedings. (All references to the debates, unless otherwise indicated, have been sourced from this website.)

⁵ For some useful reflections on modes of interpreting constitutional articles, see entry, ‘Principles of Constitutional Construction’ (*Constitution Society*, www.constitution.org/cons/prin_cons.htm). For a discussion about the various aspects of using ‘legislative intent’, see Nourse (2014) and Powell (1984), an idea that appears to be followed when reckoning with the Indian Constitution.

to play in legal disputes, decisions in a court of law and in jurisprudential reflections. Instead, one looks at the debates and discussions that surround and precede the enactment of a law to discover what the lawgiver intended. In this sense, the intention of the lawgiver is to be discerned by understanding how the context illumines the statute under dispute.

There is another issue, which I will tackle only later. That has to do with the *relevance* of going into these debates and analysing them today. One could be forgiven for thinking that such debates would be of interest to historians but that they are not directly relevant to our current situation. We shall soon appreciate, once we have *properly identified* the stakes involved, what the relevance is of the Constituent Assembly debates to the present-day controversies. Such a *proper* identification requires the presence of two things: facts and reasons. I shall endeavour to present both.

Therefore, what I will do here is to look at the Constituent Assembly debates in order to answer the *following two questions*: is it possible to discern whether the notions of ‘social justice’ used in those debates were normative or not? Did the framers of the Indian Constitution use the notion of social justice to morally defend the caste-based reservation system, assuming that they defended it on moral grounds?

The best way of answering these questions is to let the framers of the Constitution speak for themselves. If we do so, we do discover some *prima facie* evidence for suggesting that the notion of ‘social justice’ is normative in nature or that such a moral dimension is present in the term ‘social justice’. In Mr. M. R. Masani’s (Bombay) words:

words...refer to justice social, economic and political. I do not think anyone here would argue that the present state of our society is *based* on justice. (CAD, December 17, 1946)

Clearly, Mr. Masani believes that societies should be founded on justice, as his subsequent formulation suggests:

I think it has been estimated that today if our national income were to be divided into three equal thirds, 5 out of 100 Indians get one third of our national income, another 33 get the second third and the big mass of 62

get the remaining portion. That surely is not social or economic justice and, therefore, as I understand this Resolution, it would not tolerate the wide and gross inequalities which exist in our country. (ibid.)

The point is clear: social and economic justice are intolerant of wide and gross inequalities in society because the latter are perversions of justice. If justice should be the foundation of society, it follows that perversions of justice cannot constitute the basis of a society. This thought appears to provide clear evidence for the claim that 'social justice', as the lawgiver intended it, is normative in nature. However, the evidence is rather thin and inconclusive because that is more or less all we have to go by. Others in the debate appear to say just the opposite.

II

Before analysing what others, in fact, do say, we need to keep two important points in mind. Because they are going to come up repeatedly, these points will be made in their generality here.

First: in the period when the Constituent Assembly debates took place, it was a philosophical orthodoxy that there existed a fundamental ontological distinction between facts (as expressed by 'is' statements) and norms (as expressed by 'ought' statements). There was no possibility of a logical derivation of 'ought' statements from 'is' statements. Doing so was to commit a logical fallacy. The normative statements might express things like disapproval, or emotions. But they could not describe anything in the world. In short, there are no moral facts but only moral 'opinions'. A moral norm, according to the orthodoxy of that age then, functioned only as some kind of an 'ideal' that could never be realised in the world, even in an imperfect fashion. It was not and could never be a practical goal. Today, some philosophers, called 'moral realists', believe that moral facts do exist and that moral language does describe moral properties present in the world. While this is a perfectly reasonable philosophical position to take today, one should not transform the framers of the Indian Constitution into 'moral realists' *avant la lettre*. That would be strictly inadmissible: we cannot put the framers of the

Indian Constitution so completely outside their own time and intellectual boundaries that they do not make sense *even to themselves* but only to us. However, this *does not mean* that the framers of the Indian Constitution were either schooled in the philosophy of their time or that they endorsed the ruling orthodoxy. No. Nothing is being said here about their notions of morality. What is being said is that one cannot put them beyond the intellectual limits of their age without having very clear evidence and reasons to do so.

The *second* point is simpler. There is a difference between evaluative statements and normative ones. Statements that ‘measure’ or ‘evaluate’ some or another phenomenon using a standard (even if it is a conventional standard) are evaluative in nature. Whether we speak about ‘winds attaining the force of X beaufort’ or about ‘the body temperature of a sick patient’ we are measuring phenomena. One could also evaluate the performance of a student in an examination or the share value of a corporation. These are evaluations that are non-normative in nature. In other words, an evaluative statement is not necessarily normative in nature.

With the above two points in mind, if we look at what Professor K. T. Shah from Bihar had to say, it looks as though he too speaks about the normative dimension of social justice. However, this is an impression only on a first reading of the following words:

I hope no one will think it is a bee in my bonnet when I put forward this idea that there is not a trace of any desire to secure social justice, a real equality of the people, not merely paper equality, but equality in actual fact, in daily living and experience, which we were promised. . . As I read two or three most prominent chapters or articles I feel a glaring lack of any attention being given to the disinherited, to the dispossessed, to those who have not scope to have the minimum, what I may call, a decent standard of civilised existence in this country. (CAD, November 5, 1948)

However, this is an impression only on a first reading of these words. Reading Prof. Shah as though his notion of social justice is normative in nature would violate the hermeneutical ‘principal of charity’ that requires attribution of maximal reasonableness to him. That is, our

reading should not transform him into a mindless idiot, which would be the case if we interpret him normatively. Why do I say so? Notice his belief that 'securing' social justice requires the assumption that social justice is that kind of a thing that could be 'secured' in this world. Reaching that target would achieve a 'real equality' of people, an equality which is an 'actual fact'. If 'justice' refers to the real or empirically present qualities in the world and this notion has the status of an 'actual fact', then it cannot be normative in nature, unless we have evidence to show that Shah is a 'moral realist'. His notion of 'social justice' is empirically satisfiable in the world; he did not object to fixing a time frame for 'securing' social justice either. Thus, social justice was a practical goal for him and not a moral ideal ('merely paper equality', as he terms such ideals). Hence, he is angry at people who have a 'glaring lack of attention' for those who do not enjoy a 'decent standard of civilized existence'. Even though 'decency' and 'leading a civilised existence' are evaluative terms, *they are not normative in nature*. They merely measure a situation in terms of an empirical standard. Perhaps, Shah thinks that one could specify such a standard by enumerating the minimal conditions of living that would be appropriate in the twentieth century. May be not. Be that as it may, the point is that his notion of 'social justice' is not normative, even though it is evaluative in nature.

III

The rest of the participants in the debate do not provide us with even this kind of *prima facie* evidence. In fact, even though most of them endorsed the term 'social justice', there was no detectable consensus about what that term meant or how it was related to caste-based reservation. Some spoke only of 'justice' in the singular, whereas a few others spoke of 'justices' in the plural: Nehru's resolution (enshrined in the preamble of the Constitution of India) spoke of 'Justice, social, economic and political'. Obviously without reading the tabled text, the Hon'ble Mrs. Vijayalakshmi Pandit of the United Provinces outdid her brother: 'the Resolution indicates clearly that in an independent

India the fullest social, economic and *cultural justice* to individuals and groups will be conceded' (CAD, January 20, 1947). Of course, the text indicated nothing of that sort. No one in the Assembly, including a dozen people who repeated Nehru's catchphrase, appeared to show either interest in, or awareness of, the *other* modifiers to the word 'justice', such as restorative, retributive, distributive, commutative, criminal and legal justice. The chosen or the elected few who championed the cause of multiple 'justices', however, scarcely make any *normative sense* even to those exercising the greatest dose of 'interpretative charity' that hermeneutics recommends.

Consider, for instance, B. Das from Orissa who made the most interventions on this matter. He claimed that a 'new sense' of social justice had to be created 'among the people' by the government (CAD, May 24, 1949). Of course, we have no clue about what the 'old sense' of social justice was, what was wrong with it or how any government could possibly inculcate a 'sense' of justice among its people. Surely, framing some or another policy will not 'create' such a 'new' *ethical sense* in and by itself, assuming that Mr. Das is speaking about the moral sense of justice. Perhaps, a sustained and intense nationwide campaign could achieve that goal. However, Mr. Das is not talking about a campaign to raise the 'moral consciousness' of Indians; he talks about the 'primary duty' of the government which is to 'render' social justice, or 'secure' it, or 'ensure' it, or 'do' it, or 'bring' it about to the 'teeming millions' or which the Government of India Act 'gave' India (CAD, August 5, 1949). If India was given this boon through a legislative act, whose purpose is to enact some or another policy measure, which 'brings about' social justice to the 'teeming millions', it logically follows that Mr. Das is not talking about any moral rearmament campaign that should be undertaken by a government. In fact, he explicitly claims that this 'sense' of social justice is to be found even in unexpected places: in a language that puts even the most vulgar Marxist to shame, he claims that he was

pleasantly surprised to hear . . . gentlemen, situated in high places as they are and situated far above the people as they are, speak of social welfare and social justice. (CAD, August 21, 1947)

This being the case, it is not possible to think that Mr. Das was a proponent of 'social justice' that is linked in some way to a normative conception of 'justice'. If he was a defender of 'justice' as understood in normative terms, he could not possibly make the following assertion:

Sir, *I do not care for political justice*. I want social and economic justice from this House... (CAD, 7, November 5, 1948)

Thus, he complains that

the House has heard *thousands of speeches about political justice* to the people, but when has the House heard during the last two and a half years anything about economic justice to the teeming millions of this country? (CAD, 9, August 5, 1949)

His problem, apparently, was that 'social security for all' was not seen by the majority of his colleagues as a fundamental right. To him, 'social security *means* social justice for all' (CAD, July 30, 1947). Here he uses the word 'meaning' in the same way one uses it in sentences such as 'smoke *means* fire' or 'red light *means* danger' and so on. That he uses the word 'means' in this way is confirmed when he makes the distinction between them thus: 'securing social security *and* social justice'; 'That was the social security *and* social justice that the Government of India Act *gave us*'; 'It is social justice *and* social security that we want'; '*render* social justice and *secure* social security', etc. (ibid.).

Therefore, clearly, social justice means instituting policy measures that, taken together, constitute a social security system. This makes it very clear that (a) there is *nothing normative* in his notion of social justice and that (b) Mr. Das *does not postulate* any relationship between social justice and caste-based reservation.

Prof. K. T. Shah from Bihar, whom we have met already, was also deeply concerned about social justice. As we have seen, he found that the Constitution was almost entirely about 'political' justice and that there was 'not a trace of any desire to secure social justice' (CAD, November 5, 1948). In fact, he wants 'bringing in a fair measure of social justice' (CAD, November 22, 1948). It is unclear what this entails. Because 'fairness' is

one of the core components of a normative concept of justice, it makes no sense to say that one must 'bring in' either a 'just' or a 'fair' measure of 'justice', unless social justice was used non-normatively by Prof. Shah. After all, what would be an 'unfair' or 'unjust' *measure* of any kind of justice, if understood normatively? The only way to make semantic sense of him is to realise that even the notion of 'fairness' is not used here in its normative sense. The word 'fair' is probably being used as a synonym for 'decent', an evaluative but a non-normative term. Whatever the case, we find *no evidence* here that caste-based reservation had anything to do with social justice or that social justice is a normative term.

Shri Mahavir Tyagi from United Provinces finds the clause in the preamble the 'pivotal point' in the Indian Constitution. He waxes eloquent:

Justice has been defined here as justice, social, economic and political. In fact, Sir, it accommodates all that we desire. It accommodates all the revolutionary slogans in a particular form. It is social and economic justice that is demanded by the most radical of the radicals of the world. (CAD, November 19, 1948)

One could, without problems, grant Mr. Tyagi that he belongs to the 'most radical of the radicals in the world' because what they 'demand' is also what he 'desires' (ibid.). Perhaps, Dr. Ambedkar's Buddha would warn Mr. Tyagi that 'desire is the root cause of suffering'; but occasions that give birth to such advice do not tell us either about social justice or about its relationship to caste-based reservation.

Shri Vishwambhar Dayal Tripathi from the United Provinces finds that it 'sounds very good' to speak about social, economic and political justice. 'But you know that the body, which is vested with power and authority, interprets the term 'justice' in its own way' (CAD, January 21, 1947), he reminds the members of the Assembly. The best solution, as he sees it, involves an attribution of almost *incredible hermeneutic powers* to the representatives of the people:

[I]f, in reality the power and authority are vested in the people, their *representatives will interpret it correctly.* (ibid.)

One might disagree with Mr. Tripathi that voting results can causally generate such cognitive powers in human beings. But that does not tell us anything about the *content of the text or of the term* that requires 'interpretation', namely 'justice', any more than it does about its relationship to caste-based reservation. Perhaps, that is why Shri Jadubana Sahaya from Bihar found them 'magnificent and sparkling words'. Perhaps, they do not do much except function as ornaments.

IV

Three people, however, make some tangential remarks that are vaguely relevant to our theme. The first person, Mr. Devendranath Samanta from Bihar, sees the issue in this fashion: while he too applauds Nehru's resolution, 'which indicate(s) that all people will be afforded suitable facilities for development', he notices that

it has also been laid down that in the Constitution *adequate safeguards* shall be provided for minorities, Backward and Tribal Areas and Depressed and other Backward Classes, and this should be quite sufficient to *allay the suspicions* entertained, if any, of the minorities and others whose safeguards are so assured. (CAD, January 21, 1947)

Safeguards of no kind could be normative ideals; they must act causally in the world if they are to fulfil their function as safeguards and be 'adequate' in doing so. Consequently, to Mr. Samantha, it appears as though the notion of 'justice' used in Nehru's resolution names a set of empirical and non-normative conditions: these provided *suitable facilities* for development. Again, the phrase 'suitable facility' can at best be understood as an evaluative term but not as a normative concept. Caste-based reservation seems to have the eminent function of allaying the suspicions of a set of communities. Edifying, perhaps, but hardly normative.

The Honourable Shri N. V. Gadgil from Bombay, the second of the trio, reproduces a version of the Marxism of his time: capitalism means

injustice and only socialism can usher in justice.⁶ However, Karl Marx, his mentor, did not either criticise capitalism or strive for socialism on moral or ethical grounds. In fact, I do not recall Marx defending 'social justice' in any of his writings. At the time of the Constituent Assembly debates, Marxists were neither defending socialism nor attacking capitalism on the basis of a normative conception of social justice. Thus, one is forced to conclude that Mr. Gadgil could not have been putting across a normative argument.

The last person is Sardar Sochet Singh from Patiala and East Punjab States Union, who finds that

the inclusion of backward sections among the Sikhs in the category of scheduled classed *for all political purposes is a happy decision* . . . the Sikhs wanted was social justice. (CAD, May 26, 1949)

It is clear what was being communicated here: *for all political purposes, it is a happy decision to give a section of the people what they want, provided what they want is 'social justice', as they 'understand' the term*. Singh applauds the Minority Advisory Committee for their proposal and congratulates them for taking such a 'happy decision'. No one in the Assembly disagreed either with the Minority Advisory Committee or with the Sardar. This means that all of them either agreed with him or found the point too trivial to disagree. In that case, it follows that the framers of the Constitution of India found it *absolutely normal* to allow some group or another to enjoy the fruits of the reservation system on grounds of political expediency. In that case, why make a big fuss about the Patels or the Gujjars in India today? Surely, what they ask and how they do so was also well known to the framers of the Indian Constitution. Further, the framers of the Constitution also respected such 'wants' and acquiesced to such demands.

⁶ He remarks, for instance, thus: 'If economic justice is to be secured, it can only be, if the means of production come to be owned by the State as such' (CAD, January 20, 1947).

Thus, our conclusion has to be: caste-based reservation is either an expression of political expediency or a psychological tool to allay suspicions of some communities or both. It was not defended on moral grounds.

V

Even Dr. Ambedkar's interventions in the Assembly follow the same trend. He wants 'to make economic, social and political *justice a reality*' and recognises that '*doing justice* socially, economically and politically' is important. 'Justice', in moral and political theory, is a normative concept. This logically entails that 'justice', of whatever normative kind, can never become 'real' because of the logical difference between the normative and the factual. The kind of justice that 'can be done' and 'must also seen to be done' refers to legal justice, which is not a normative conception. How is it with social justice? When we realise that Dr. Ambedkar tied the caste-based reservation system explicitly to a time frame after which it should be abolished, it is logical to believe that 'social justice' *was not a normative goal to him*. It must have been a *practical, realisable and non-normative goal* that could be achieved in 10 or 60 years at the most.

The above point acquires a greater force if we ask the following question: *has 'political' justice been realised through adult franchise in India?* If yes, then neither social nor economic 'justice' could be normative ideas because the preamble puts them all on the same ontological level. *If no, we are logically compelled to say that democracy in India expresses political injustice.* Perhaps, that is why Mr. Kamath (from C.P. and Berar) asks whether it is not

far better to say *that* we will have political, economic and social democracy, rather than mere justice, which is an abstract conception? (CAD, November 23, 1948)

Shri M. Ananthasayanam Ayyangar from Madras appears to agree that

there is a vague *reference* in the Objectives Resolution that there shall be social justice and economic justice. Economic justice may mean anything or may not mean anything. (CAD, November 9, 1948)

Let me sum up: it can now be said that the notion of ‘social justice’ *could not have been a normative notion* to the framers of the Indian Constitution, even if there was no consensus about the meaning of that word. Furthermore, we are also far from knowing how they understood the relationship between caste-based reservation and social justice, when they discussed and voted for the Indian Constitution. If these two observations are true, a huge question opens up: *on what grounds do some in the judiciary, most intellectuals and all the Ambedkarites in India claim that their normative notions find their justification in the Indian Constitution?* Neither the letter nor the spirit of the constitution countenances such an interpretation. There is *no view from the inside* (one cannot be more of an ‘insider’ regarding the Constitution than being present in the Assembly as its member) that allows any kind of *normative association* between social justice and caste-based reservation. Perhaps, that is the reason why Nehru, who penned the words ‘justice, social, economic and political’ into the preamble, was so irritated by the *inefficiency* that the reservation system apparently generated (Nehru 1990, 456–457). His irritation was never tempered by normative considerations, which would have been the case had he thought of caste-based reservation in moral terms.

VI

Perhaps, many before me have made similar remarks in blogs, articles and books that I have not read. I have no worries about being found unoriginal by those who know more than I do. But I do have two worries:

- (a) Why, if the points I make here have already been made (perhaps, even repeatedly) by others, do some from the judiciary, most academic intellectuals and all Ambedkarites continue to repeat indefensible claims about the alleged normativity of ‘social justice’ and the caste-based reservation system? Surely, it is not possible to write all of them

off as dumb and self-serving, even if some individuals from this group are both dumb and self-serving. It could not be the case either that they have evidence and arguments both of which are stronger than those I have presented so far. Because, if that were to be the case, they would have surely used them to defend their case, which they do not. Consequently, we have a complex explanatory problem at hand. A solution to the problem of rendering the actions of these people intelligible cannot be psychological, because many different individual psychologies are involved here. Nor could it appeal to vulgar ideas about caste or class 'interests' for the simple reason that these people come from different castes and different classes. Since neither I nor anyone else in the world has a scientific answer to this question, I shall not pretend to provide an explanation here. Nevertheless, as we shall soon see, facts and arguments are going to *forcefully propel* us in a direction that is extremely distressing, to put it mildly.

- (b) Let us assume the truth of two counterfactuals for a moment: (a) suppose that we say that the framers of the Indian Constitution did have a normative conception of social justice. What is the problem about it? Why make such a big fuss about an issue, which appears purely historical in nature and of antiquarian interest? (b) One might also want to argue counterfactually that we are able to provide such a normative foundation to caste-based reservation today. What prevents us from attributing good faith to the framers of the Indian Constitution and suggest that nuggets of insights and intuitions about our theories can be discerned in them as well? After all, it is well-known to all of us that earlier generations could have insights and intuitions that only later generations can elaborate in an explicit fashion. In this sense, one could be expressing an intellectual debt or tracing an intellectual heraldry in claiming that the framers of the Constitution saw social justice in a normative fashion. What is the problem here? In short, both these counterfactuals raise questions about *the stakes in the debate*.

These two issues must be addressed clearly and explicitly because of a very widespread tendency in India. That involves attributing bad motives to people and presenting that as an explanation. Very often,

very regularly and very consistently, I have been accused of wanting to sell a 'neo-Brahminical' theory and my attempts are classified as part of a conspiracy hatched by the 'upper castes'. Apparently, one's birth is *the truth-maker par excellence*. Quite obviously, Indian *jatis* have the miraculous power and ability to make claims about the world come out true or false. Though many others also say this, it is Ambedkarites who make a very comfortable living by marketing such ideas. I have no quarrels with how they make their living; in fact, I have no quarrels of any kind with anybody. What I do have are arguments that spell out the issues at stake. Let me formulate that idea very starkly before explicating it.

If you claim that the framers of the Indian Constitution used a normative conception of social justice, then *you are being unfair, immoral and unjust*. Further, in your hands, *almost all the framers of the Indian Constitution become inauthentic, deceitful and immoral*. This is what is at stake in this debate: *were the framers of the Indian Constitution engaging in duplicity, when they framed the Indian Constitution?* My answer to this question is in the negative. Those who attribute normativity to the concept of 'social justice', saying that this was how the framers of the Indian Constitution used it, are *forced* to answer it in the positive. Let me explain.

VII

Let me begin by reiterating a claim I have already made. While interpreting an individual's writings, we should take care not to place him beyond the intellectual limits of his time without solid evidence and good reasons. What is true of an individual is even truer when we speak of an entire group of people, like the members of the Constituent Assembly in our case. The question, of course, is: how do we know what these intellectual limits are? In the current case, the answer is simple. We need to know who spoke about social justice during the period under consideration and, if there were many views, which of them were dominant in that period. With this in mind, if we look at the intellectual currents involved in the debate on social justice during the

period under consideration, we discover only one absolutely dominant force in the first half of the twentieth century. *They were the Christians in general and Catholic Christians in particular.*

In fact, the normative notion of ‘social justice’ and the way it was later to be used by all and sundry was first brought into intellectual circulation by a politically conservative Italian Jesuit priest, Luigi Taparelli D’Azeglio, in his *Saggio teoretico di diritto naturale appoggiato sul fatto* (*A Theoretical Treatise on Natural Law Resting on Fact*), a five volume work published from 1840 to 1843. In 1851, Vincenzo Mansi Press published a corrected second edition of this book in a single volume. Taparelli was a professor in the Jesuit seminary of Rome, whose students included Gioacchino Vincenzo Pecci, better known to the world later as Pope Leo XIII. This Pope authored the famous encyclical, *Rerum Novarum* (On the condition of the working classes),⁷ which is hailed as the first official Catholic statement on the ‘social question’. Even though much can be said about Taparelli and his works, I will restrict myself here to just one quote from his work that I take from the readily consultable piece of Thomas Burke:

If an individual receives so much from another to whose goods he had no previous right, he must give as much in return if he wishes to settle accounts according to justice. Justice between equals consists therefore in a quantitative balancing or levelling; nor can justice be lessened on one side by increasing the other, since the right of the person who gave extends precisely to the thing he gave, neither more nor less. Therefore, this right is satisfied by an equivalent. But suppose instead that two or more individuals all seeking a common good (many sailors, for example, seeking to discover an unknown land, or many associates running a public educational establishment) compete with one another to obtain a pre-eminence or an office: *does the rule of justice require you to balance accounts between the two of them?* But no, *that is a ridiculous thing even to say, impossible to execute.* But then what does equality mean here? *Equality consists here in equalizing the office to the person’s capacity, the recompense to*

⁷ The Encyclical Letter ‘*Rerum Novarum*’ was issued on May 15, 1891 (http://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html).

the merit, punishments to demerit, and the real order to the ideal proportions of means to end. And each person should be content to make the same contribution as every other to the common purpose. (cited in Burke 2010, 102–103)

Taparelli's book went through many editions and multiple reprints, which index its impact on normative thinking about social issues. Here is how Burke speaks about the reach of Taparelli's thought:

Taparelli has a good claim to being the father of Catholic social teaching. One of his students was the Jesuit Matteo Liberatore, who wrote the first draft of Pope Leo XIII's 1891 encyclical, *Rerum Novarum* (*On the Condition of the Working Classes*), the first papal statement on 'the social question.' Leo himself . . . had been a student of Taparelli's, his collaborator at the *Civiltà Cattolica*, and seems to have been influenced by him. Pius XI used to recommend the study of Taparelli's works in conversations with his friends and colleagues. One of Liberatore's students was Oswald von Nell-Breuning, S.J., who wrote Pius XI's 1931 encyclical, *Quadragesimo Anno*, which officially adopted 'social justice' as part of Catholic doctrine, but as an economic doctrine notably stronger than Taparelli's: '[T]he right ordering of economic life cannot be left to a free competition of forces. For from this source, as from a poisoned spring, have originated and spread all the errors of individualist economic teaching.' In 1932 Franklin Delano Roosevelt quoted this encyclical in a campaign speech before a large crowd in Detroit, saying it was 'just as radical as I am' and 'one of the greatest documents of modern times'. (Burke 2010, 106)

Leo Shields, who was commissioned as a Lieutenant in the US army and died fighting in France in 1945, received a doctorate from the University of Notre Dame in 1941 for his dissertation on 'The History and Meaning of the Term Social Justice'. There, he summarises the history and impact of the term 'social justice' with unequivocal clarity thus:

Social justice probably did not appear as a term with any special meaning until about 1850. After the appearance of Leo XII's

encyclical *Rerum Novarum*, it came into quite common use among Catholic writers. By the turn of the century, moral theologians had given it recognition and most of them were agreed that it named the long-ignored social virtue, legal justice. At the same time writers outside Leo's intellectual tradition were beginning to use it, often apparently without knowledge of the Catholic literature. It was popularized by Catholics in France, Germany and the United States, and between 1910 and 1930 hundreds of books and pamphlets talked about it in popular and vague terms. The Protestants and the Jews took it up as a slogan for social reform, scholarly books were written about the progress of social justice, and the term found its way into such documents of state as the Versailles Treaty... it is... an important concept in Catholic social thought. The encyclicals of Pius XI used it repeatedly in a more and more precise sense, clerical and lay Catholic leaders in the social movement have publicized social justice at great length; in 1937 the term appeared in its precise meaning in the new Irish Constitution. (Shields 1941, 6)

The 'precise' meaning that Lieutenant Shields talks about is to be found in the *Catechism of the Catholic Church*:

Society ensures social justice when it *provides the conditions* that allow associations or individuals to *obtain what is their due, according to their nature and their vocation*. Social justice is linked to the common good and the exercise of authority. (*Catechism of the Catholic Church* 1993. Chap. 2, Art. 3)

In a nutshell, here is how Shields characterises the idea of 'social justice':

The Catholic message of social justice is written in sharp relief against... (the) background of individualist thought in all its forms – romantic, rationalistic, humanitarian, totalitarian. It is the key to the reintegration of social life that must be inspired by Christian faith and charity and supported by grace. But it is a key which even this pagan society can turn if it is shown how. The realization of the idea of social justice is the unity of social peace. (Shields 1941, 71)

VIII

Today, even if one wants to provide a secular foundation to the Christian religious conception of 'social justice' or if one wants to trace the implicit roots of this term or notion in Christian, non-Christian or pagan thinkers before Taparelli, what cannot disappear is the following problem: *which normative conception of 'social justice' was available to the framers of the Indian Constitution in the late 1940s and early 1950s?* Unless one wants to falsify the past by writing a Stalinist historiography, there is only one possible answer to give: *The Christian notion of 'social justice'*. I call this notion Christian (Catholic in particular) not because either Taparelli was a Jesuit Priest or because the Catechism where it is enshrined is Christian in nature. No. It is Christian for an entirely different reason: this notion of social justice made absolutely no sense outside the Christian notions of man and society. Whatever we might think about the term 'social justice' today, until the beginning of the second half of the twentieth century at least, *it made normative sense if and only if the truth of Christian theology was presupposed.*

Of course, it is entirely possible, though highly improbable, that a non-Christian, secular and coherent theory of social justice was written by someone or another before the 1950s. This claim would be relevant to us only under the condition that one can provide compelling evidence, which proves that all the members of the Constituent Assembly knew the existence of such a book or article and had read it. *No such evidence exists.*

In the absence of any such evidence, it cannot be maintained that the framers of the Indian Constitution used this Christian notion (the only normative notion of 'social justice' available at that time), *unless one suggests that the entire Constituent Assembly was made up of Christians.* This is patently false. Even those who used this term in the debates were not Christians.

Thus, we have (a) positive evidence, on the basis of the proceedings of the Constituent Assembly proceedings, that the framers of the Indian Constitution did not use 'social justice' normatively; (b) positive evidence that the only available normative notion of 'social justice' was

Christian in nature; (c) positive evidence that not all members of the assembly were Christians; (d) positive evidence that even those who intervened in debates about ‘social justice’ were not Christians; and (e) no evidence at all for suspecting the existence of a notion of ‘social justice’ that was secular in nature and also known to the members of the Constituent Assembly. If these are the facts of the matter, to see the use of a normative notion of ‘social justice’ in the Indian Constitution is to say that all the members of the Constituent Assembly were actually Christians, even though they pretended that they were not. To say this is to *accuse them of duplicity*. It would further accuse them of *deceiving the Indian people*. It would also *render them immoral* because they would then have imposed a Christian norm on a gullible and trusting population. This is what some from the judiciary, most of the academic intellectuals and all the Ambedkarites are implying today. *They all implicitly suggest that the framers of the Indian Constitution were immoral and indulged in massive deception and duplicity*. This, then, is the *strangeness* that I have been speaking of until now: how could they imply such an atrocious suggestion with absolutely no evidence or arguments to back that up? *But they do*.

IX

Of course, one could suggest that something else occurred in the Constituent Assembly. One could suggest that the English word ‘justice’ was used to express the meaning of the Sanskrit word *nyaya* and, hence, the term ‘social justice’, when used in the Assembly debates, expressed the Indian notion of *samaja nyaya*. One could appeal either to the meaning of the word *nyaya* or seek help in the distinctions made by a Nobel Prize winner, Amartya Sen, or both.

Unfortunately, neither of the strategies work. In Sanskrit, the word *nyaya* means ‘rule, model, maxim, logic or a logical argument’. Meaning literally ‘that into which a thing goes back’, it is a word that combines *ni* meaning ‘down’ or ‘back’ and *eti* meaning ‘he goes’. Therefore, the term *samaja nyaya* could maximally mean a ‘social rule’ or a ‘social model’.

One could very plausibly suggest that the members of the Constituent Assembly used ‘social justice’ in the sense of a ‘social model’ because of the explicit identification made between the social security system and social justice. However, not all rules, including social rules, are normative in nature: there are also logical rules, methodological rules, legal rules, rules of manners and etiquettes and so on. Consequently, it is not possible to suggest that the Sanskrit *nyaya* translates the normative notion of justice or that *samaja nyaya* translates the normativity of ‘social justice’. This would be question-begging: one assumes as true what requires proof of its truth.

One could argue that the Hindi *nyay* translates the English word ‘justice’ and that it means something different than the Sanskrit word. This ploy will not work for linguistic reasons. In Hindi, the antonym (*viloma*, as it is called in Hindi) for *nyay* is *anyay*. If conjoined with words that have independent meanings, ‘A’ often indicates the antonym or the opposite of a word in both Ancient Greek and Sanskrit. Therefore, unless one can linguistically show that *nyay* in Hindi could never have meant ‘reasonable’ or ‘logical’ and implied only the normative conception of ‘justice’, it is not possible to suggest that the framers of the Constitution had something else in their mind than what the Sanskrit word means. Today, it is true that a lot of people bandy the term *samaja nyaya* around as though it translates the normative notion of ‘social justice’. However, this situation tells us more about the ignorance of such people regarding the meaning of these words and indicates that it has become an empty slogan without any content.

Amartya Sen, it is true, makes a distinction between *nyaya* and *niti* (in Sehgal 2009). However, his technical distinction between these two words is this: “‘niti’ is about rules and institutions and ‘nyaya’ is about their realisation’. That is not all. His distinction completely undercuts the story that *samaja nyaya* could be translating the term ‘social justice’. In his own words:

Reservations as a policy cannot be justified on grounds of redressing the past. It would be justified in terms of improving the present. Therefore we have to judge reservations as a ‘niti’ in the light of what it actually does rather than what it is theoretically expected to do Sehgal (2009).

In short: one cannot appeal either to the word meaning or to the Nobel Prize to justify the claim that the framers of the Indian Constitution spoke normatively when they used the term ‘social justice’.

Conclusion

Earlier on, I identified the stakes in this debate thus: ‘if you claim that the framers of the Indian constitution used a normative conception of social justice, then you are being *unfair, immoral and unjust*. Further, in your hands, almost all the framers of the Indian constitution become *inauthentic, deceitful and immoral*. This is what is at stake in this debate: were the *framers of the Indian constitution engaging in duplicity*, when they framed the Indian constitution?’

If we possess even traces of intellectual and moral integrity, the facts and the reasons used to answer the above question compel us to lay down a reasonable charge now. Those who claim that the framers of the Indian Constitution used the notion of social justice to morally and ethically defend caste-based reservation system are not telling the truth, which means that *they are lying*. They are *being immoral* when they claim to find moral justifications for their pet notion, i.e. the caste-based reservation system, in the Constitution of India. They are *dishonest* in so far as they propagate that the caste-based reservation policy was intended as a moral redressing of an unjust past by the framers of the Indian Constitution. Perhaps, those who imply that the framers of the Indian Constitution were hiding their commitment to Christianity *are the dissimulating Christians in our midst*. If that is the case, why do they not openly claim that they are Christians, instead of seeking subterfuges to disguise themselves? If they hide this fact, in the event that it is a fact, then they are *being deceitful* as well.

This, then, is the *second aspect to the strangeness* that I talk about. How is it possible to accept immorality, deceit and duplicity as excellent moral virtues? Obviously, it is possible in the India of today: some people in India are coercing others to accept an insane and morally abhorrent idea as God’s own truth and their endeavour is backed by all Ambedkarites,

most politicians and academics, many bureaucrats and some in the judiciary. They are even blessed by a few religious heads. A conceptual and ethical impossibility appears to have become an ‘empirical fact’ in today’s India; that is probably why proving its truth has become academically a very respectable pursuit in many parts of the American academia, ranging from professional organisations like the American Academy of Religion to ivy-league institutes like the Harvard University. *Is this not strange as well?*

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3

Are There Caste Atrocities in India? What the Data Can and Cannot Tell Us

Dunkin Jalki and Sufiya Pathan

Even the most cursory investigation into ‘caste violence’ or ‘caste atrocities’ returns scores of articles and reports by governmental and non-governmental agencies on the issue. It has come to acquire the status of an axiom that violence and exploitation of all kinds, including physical atrocities, is an integral part of the caste system, and is always on the rise. Nobody expresses even a shadow of a doubt about this situation.¹ In fact, as a recent paper puts it,

¹ For some of the most recent expressions of this conviction, see Viswanath (2014), Ramaiah (2011) and *Joint Stakeholders Report on Caste Based Discrimination in India 13th Session of the Universal Periodic Review of the UN Human Rights Council – India (21st May – 1st June 2012)*, Submitted by National Coalition for Strengthening PoA Act, Initiation of National Campaign on Dalit Human Rights (NCDHR), available from: www.indianet.nl/pdf/UPR_Caste_Based_Discrimination_India_2012.pdf For a discussion on Ramaiah’s article, see: <http://blogs.lse.ac.uk/indiaatlse/2013/05/28/growing-crimes-against-dalits-in-india-despite-special-laws/> Note: This and all other online documents and webpages cited in the chapter were last accessed in July 2016.

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In India, former untouchable castes and several tribal groups continue to be subjected to discrimination, economic and social exclusion and a stigmatized identity. Additionally, . . . these groups have been victims of crimes and atrocities at the hands of the upper castes – largely on account of their low caste identity – in the form of rape of women, abuse by police personnel, harassment of lower caste village council heads, illegal land encroachments, forced evictions and so on. (Sharma 2015, 204)

Yet, an examination of available data reveals some fairly startling anomalies in respect of such claims. This chapter provides such an examination and raises the following question: what is the basis for our entrenched conviction that the caste system generates atrocities in India?

The conviction about caste atrocities in India is expressed in two slightly different ways. Some studies explicitly seek to show that the lower castes routinely face violence, which includes physical assault, rape, arson, abduction and other such criminal acts, at the hands of the upper castes. These studies document cases and analyse police statistics in order to make their case. The wider and more pervasive model for studying violence attributed to caste, however, are studies that document much wider sets of practices and events within the ambit of studying ‘caste violence’. For instance, such studies often include documentation of ‘untouchability’ practices, land ownership and labour, remuneration for labour patterns, occupational access, economic and social mobility, access to education, access to particular spaces and resources (especially temples and wells) and many other such factors along with (or even to the exclusion of) cases of violence and crime. For ease of reference, the former can be referred to as the hard data on caste atrocities and the latter, soft data.

Many scholars have raised doubts about the soft data of caste atrocities (Balagangadhara 2012; Desai 1984; Singh 1967). However, not much is said about the quality of hard data in question. This chapter analyses the data available from police reports, examines how it has been presented so far and presents an alternative perspective on it.

On the Statistical Evidence for Caste Atrocities

There is a clear trend in research on ‘caste violence’ to draw on data made public by the police departments in India in order to show (i) that the lower castes face a great deal of violence; (ii) that this violence requires attention because it is an inordinate amount of violence faced by one particular group of people and it is of an especially gruesome nature; (iii) that this violence is always on the rise; and (iv) that this violence is motivated by attempts to keep up the ‘caste system’ in its original form, maintain its traditional hierarchies and the subjugation of the lower castes.

Citing large numbers plays an important role in these studies. Caste scholars, who do not usually generate systematic field data, currently depend upon the data provided by government bodies like the National Crime Records Bureau (NCRB). NCRB publishes annual reports on crime that contain separate chapters on caste atrocities. This practice of including separate tables on ‘Incidence, Rate and percentage contribution to All India of crimes committed against SCs’ began in 1995. According to the 1995 report (which includes data for the years 1993 and 1994), this data was generated in order to track crime against the ‘weaker sections of society’.² However, ever since this data has been made available, a new trend has emerged in the reportage of caste atrocities. Caste studies now include the total crime against SCs as well as those that are lodged under the so-called Special Laws: Protection of Civil Rights Act (PCR) and Prevention of Atrocities Act (PoA) as ‘caste atrocities’ (see e.g. Mamgain 2014; Ramaiah 2011; Sharma 2013, 2015; Teltumbde 2010; The World Bank 2011; Thorat 2009).

Scholars do not provide any overt justification for this manoeuvre. But one may minimally infer from this strategy that these scholars consider all kinds of crime against a specific ‘lower caste’ group as a valid indicator of ‘caste atrocities’ against that group. If we are to concede that such is the case, however, we run into immediate difficulties in following the interpretations of the data provided by these scholars.

² Ref. <http://ncrb.nic.in/StatPublications/CII/CII1995/cii-1995/CHAPTER-9.pdf> (p. 257)

According to the NCRB annual crime reports, the total number of criminal ‘Incidence against Scheduled Castes [SCs]’ in India during 2011³ was 33,719 (see Table 3.1).⁴ It is important to realise that such figures can be stated in many different ways. One may choose the route of making it appear sensational: ‘As per Crime Statistics of India, every 18 minutes a crime is committed against SCs; every day 27 atrocities against them (3 rapes, 11 assaults and 13 murders); every week 5 of their homes or possessions burnt and 6 persons kidnapped or abducted.’⁵ ‘As per the 2005 Report (Crime in India) of NCRB, every 20 minutes a crime against Dalits is reported in the Police Station across the country.’⁶ Or one may attempt to analyse the significance of this data for the claim that it is used to support. In order to do so, one has to juxtapose the 33,719 cases of incidence against SCs, with the following two figures that the NCRB reports provide:

(a) A total of 6,252,729 cognisable crimes were reported for the year 2011 in India. This means, the total number of reported crimes against the SCs in 2011 was about 0.53% of the total reported crimes in India in 2011.

(b) As per the 2011 national census of India, the SCs comprise about 16.6% of the total population of India. If 16.6% of the population faces 0.53% of the total criminal incidents in India, the remaining 83.4% faces 99.47% of the rest of the criminal incidence. That means that on average, every percentage of non-SC population faces roughly 1.19% of the incidence of crime, while every percentage of the SC population faces about 0.04% of the crime.

³ The only reason to select the data for the year 2011 is that the census data is freshly available for that year.

⁴ Ref. <http://ncrb.nic.in/CD-CII2011/cii-2011/Table%207.1.pdf>. Note that, the authors of this chapter are aware of the limitations that NCRB claims for its data and the data selection process. However, despite these ‘limitations’ caste scholars make use of this data to make sweeping claims about caste violence in India. This warrants an analysis of the data and its use, which is what this chapter intends to do.

⁵ Ref. www.ncdhr.org.in/resources/publications/ndmj/UPR_Caste_Based_Discrimination%2C_India_2012.pdf. (p. 5). The report does not clarify how it comes to these figures.

⁶ See, ‘Alternate Report: To the Joint 2nd to 5th Periodic Report of the State Party (Republic of India)’, prepared by National Campaign on Dalit Human Rights (NCDHR) in 2008, available at: <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/NCDHR-IDSIndia40.pdf> (See also Mandal 2012, p. 6).

Table 3.1 Crime against SCs during 2001–2013 (select years)^a

CRIME HEAD	Year						
	2001	2003	2005	2006	2009	2011	2013
1. Murder	763	581	669	673	624	673	676
2. Rape	1,316	1,089	1,172	1,217	1,346	1,557	2,073
3. Kidnapping and Abduction	400	232	258	280	512	616	628
4. Dacoity	41	24	26	30	44	36	45
5. Robbery	133	70	80	90	70	54	62
6. Arson	354	204	210	226	195	169	189
7. Hurt	4,547	3,969	3,847	3,760	4,410	4,247	4,901
8. Other Crimes	12,201	11,401	11,077	11,808	15,082	14,958	16,797
9. Protection of Civil Rights Act (PCR)	633	634	291	405	168	67	62
10. POA, the SC/ST Act ^b	13,113	8048	8497	8581	11,143	11,342	13,975
TOTAL	33,501	26,252	26,127	27,070	33,594	33,719	39,408

^aThis data is from the NCRB reports. The reason for choosing data from 2001 onwards is this: 'Cumulative totals of data available on monthly basis were used for analysis till 2000 which did not distinguish true or false cases, therefore, the incidence of crime reported in the year 2001 and later years may not be comparable with figures of earlier years'. Ref.: <http://ncrb.gov.in/CD-CII2013/compedium%202013.pdf>, p. 107.

^bExplanation of the terms: (a) in order to make the practice of untouchability a punishable crime, the Parliament of India enacted a law in 1955, called 'Untouchability and the Protection of Civil Rights Act, 1955' or 'Untouchability offences Act (UoA)'. An amendment to the Act to make it more stringent, in 1976, also renamed it as 'Protection of Civil Rights (PCR) Act, 1955.' (b) The Indian parliament enacted a new Act, popularly known as POA in 1989: 'The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989'. This act was recently amended in August 2015 in order to broaden the scope of acts which could be called 'atrocities'.

What does one make of this statistic? If measuring crime against a group is a reliable measure for atrocities against the group, then we are forced to conclude that SCs face fewer atrocities than the rest of the population. If crime against a group is not a reliable measure for atrocities, we cannot admit the NCRB data of total incidence of crime against SCs into a debate on caste atrocities. But what other data is there, besides an accumulation of anecdotes and stories?

There are many other problems one encounters with the way this data is both generated and interpreted. For instance, as [Table 3.1](#) shows, NCRB collects data under 10 categories. The cases registered under special acts (see rows 9 and 10 in [Table 3.1](#)), are those that are committed by a non-SC person against a SC person.⁷ Expectedly, if we consider only the cases lodged under the special laws in question, the percentage of atrocities against SCs decreases considerably (see column B in [Table 3.2](#)). For instance, for the year 2011 atrocities would account for 0.18% of the total incidence of crime. By itself this may not be a significant statistic. It is possible that these crimes merit attention, even though they are a very small percentage, because they are a special category of crime that only a particular section of the population faces, or these crimes are especially heinous, or especially harmful in other ways. However, these are not the claims scholars and NGOs make. The claim made with unanimity is that caste violence is extremely widespread and that the lower castes face *greater* violence in Indian society than any other groups. *Where is the data that shows this to be the case?*

It is disconcerting to see that scholars and ‘social activists’ seem to put aside even the most preliminary compunctions in relation to the use of this data. For instance, the data about general crime against SCs/Schedule Tribes (STs) does not document the caste of the perpetrator. The NCRB data is based on complaints or ‘first information

⁷ While it is far from established that any crime that a non-SC person may commit against an SC is a ‘caste atrocity’ (i.e. driven by the motive to either exploit or discriminate against an individual on the basis of caste), since this is a requisite definition under law – that any crime committed by a non-SC against an SC may be categorised as a caste atrocity without establishing caste as a motivation – one cannot but accept these figures as ‘caste atrocities’ under the law.

Table 3.2 Percentage of crimes against SCs

Year	Total incidence of crimes			Population of India	
	A	B	C	D	E
	Against SCs (in %)	Registered under POA, the SC/ST Act and PCR Act for SCs	In India	Total	SC (in %)
2001	33,501 (0.62%)	13,746 (0.25%)	5,344,538	1,028,737,436	166,635,700 (16.2%)
2002	33,507 (0.60)	11,788 (0.21)	5,531,172	–	–
2003	26,252 (0.47)	8682 (0.15)	5,494,814	–	–
2004	26,887 (0.44)	9255 (0.15)	6,028,781	–	–
2005	26,127 (0.52)	8788 (0.17)	5,026,337	–	–
2006	27,070 (0.53)	8986 (0.17)	5,102,460	–	–
2007	30,031 (0.52)	10,025 (0.17)	5,733,407	–	–
2008	33,615 (0.56)	11,744 (0.19)	5,938,104	–	–
2009	33,594 (0.50)	11,205 (0.16)	6,675,217	–	–
2010	32,712 (0.48)	10,562 (0.15)	6,750,748	–	–
2011	33,719 (0.53)	11,409 (0.18)	6,252,729	1,210,726,932	201,378,086 (16.6)
2012	33,655 (0.55)	12,638 (0.20)	6,041,559	–	–
2013	39,408 (0.59)	14,037 (0.21)	6,640,378	–	–

reports' (FIRs) prepared by the police when they receive information about a 'cognisable offence' from either the victim or by someone representing the victim. That means, the NCRB data for the total crimes against SCs, save the ones recorded under special laws, does not decide whether an offence is a 'caste offence' or not. It is simply a record of a crime committed against an SC person.⁸ That is, when a crime is recorded under the IPC, the caste of the perpetrator of the crime either not known, or not considered, or, where known and noted, it is not made part of the compendium that is available in the public domain. In the whole majority of the 'crime against SCs', excluding those recorded under PoA, therefore, the perpetrator could well be a lower caste person.

⁸ See for instance the NCRB annual report for 2011, <http://ncrb.nic.in/StatPublications/CII/CII2011/cii-2011/Chapter%207.pdf>, at p. 107.

Thus, there is absolutely no basis to use these general figures of crime against SCs as ‘caste crimes’. Scholars are also aware of this shortcoming (e.g. Sharma 2015, 215). Yet, they put aside this fundamental consideration when constantly repeating the mantra that caste crimes and atrocities are rampant in India and adorning it with puffed-up figures.

Another strategy that is used to puff-up figures and claim that caste violence is always on the rise is to use absolute total figures. For instance, many studies use the rise in total figures of crime against SCs as proof of rise in atrocities (e.g. Devakumar 2007, 41; Ramaiah 2011, 153). However, this figure can only be understood in the context of other figures of rise in crime. Since the overall crime figures have also been on the rise annually, one can claim that there is a rise in crimes against SCs only if the rise is greater than the overall rise in crime. In complete contradiction of the proposition that caste scholars make about the constant rise in caste atrocities, the percentage of crime against SCs has remained rather constant over the last decade and has not, in fact, shown any significant rise (see Table 3.2). What happens to these figures if we take into account the *rate of crime* against SCs (i.e. number of incidences per one lakh or hundred thousand of SC population) provided by the NCRB reports? One scholar points out that the rate of crime against SCs in India has in fact decreased over the years.

The latest report of NCRB for the year 2013 reported 39408 cases of cognizable crimes committed against SCs in India. This crime rate stands at 19.57 incidences per one lakh of SC population. Though the number of crimes has increased from 32996 in 1995 to 33501 in 2001 and to 39408 in 2013, the rate has substantially declined – from 23.24 in 1995 to 20.14 in 2001 and further to 19.57 in 2013. (Mamgain 2014, 23)

Furthermore, given the *nature* of the data we have, to make any significant claim about caste violence one must at least be in a position to show that crime against other castes or communities is significantly less than that faced by the SCs. Yet, there is no data available today from

which one can see which caste bears the brunt of crimes in India. The NCRB reports provide separate data only about the SC and ST communities and no other caste communities. Given this scenario, they simply cannot tell us anything that is statistically significant about 'caste violence'. This data could become statistically significant only if comparable data about other castes and communities is also made available, and the comparison tells us a stark story of high rates of violence against the SCs and also documents the source of this violence as coming consistently from higher caste individuals and groups. From the overall statistics available, it currently seems that this is not the story we can derive.

The claim we make is not that the crimes against SCs are statistically insignificant and therefore do not merit attention.⁹ We propose that these statistics contradict the claim that lower caste people face greater violence in society than other groups. Minimally one may say that the idea of widespread caste atrocities is not drawn on the basis of the data available about crime and atrocities in India. While this may sound like a strange claim to make, it is the only possible conclusion one may reach from the foregoing discussion. If the idea of caste atrocities is not derived from the data about it, then what is its basis?

A Popular Caveat

One of the ways in which caste studies have continued to uphold the picture of widespread caste atrocities in India in the face of challenges that emerge from the hard data is by relying on the popular caveat that the data is unreliable because caste violence is under-reported. In Andre Beteille's words: even though 'caste clashes are now reported much more extensively than before...clearly, not all such clashes are reported'

⁹ Such objections had been raised in Parliament as documented in a report by a special correspondent of *Economic and Political Weekly* ('Rising Crimes against Scheduled Castes', XV:32, 1980, p. 1336): 'the Scheduled Castes constitute 15% of the population of the country and that the crimes committed against them as a proportion of the total number of crimes is so small that no serious notice need be taken of them'.

(Beteille 1990, 494; see also, Clarke 2002; EPW Correspondent 1980; Lobo 1994; Mamgain 2014; Sharma 2015). Or even more strongly put: 'it is an undisputed fact that most of the crimes against SCs by the non-SCs/STs go unreported for obvious reasons of caste prejudice in society at large and among the police in particular' (Ramaiah 2011, 153). Thus, even before the NCRB reports made separate data on crimes against SCs available, statistical data on caste atrocities has been presented with this popular caveat: that there is 'under-reporting' of 'caste atrocities'; or that *most* cases go unreported.

What do we make of this oft-repeated caveat? It is an accepted fact that crimes are always under-reported to a considerable extent, for various reasons.¹⁰ Is the case with caste atrocities any different from this general situation? Caste scholars have to show that in addition to the general tendency to shy away from reporting crime, there are obstacles and hindrances specific to reporting 'caste crimes'. How do they go about doing this and do they have any persuasive arguments for this conviction?

First, as an exercise, let us take the claim that caste atrocities are 'under-reported' at its face value and assess its possible impact on the statistical analysis presented in the earlier section. If we accept, for the sake of argument, that 'the number of unregistered cases of atrocities might range between one and one and a half times that of the registered cases' (Chakraborty et al. 2006, 2478), the total number of crimes against the SCs, say, in 2011 would not be more than 1.32% of the total incidence of crime. This would still not put the rate of crimes against SCs at anywhere close to what the rest of the population faces. That is the consequence if we take the total incidence of crime against SCs and multiply it by 2.5 ($0.53 \times 2.5 = 1.32$), as per the suggestion. On the scale of *crime per every percentage* of population, SC population now faces 0.1% ($= 0.04 \times 2.5$) crime as against the 1.19% that every

¹⁰ See for instance the report prepared by the U.S. Department of Justice called 'Victimizations Not Reported to the Police, 2006–2010' (www.bjs.gov/content/pub/pdf/vnnp0610.pdf). It opens with these words: 'During the period from 2006 to 2010, 52% of all violent victimizations, or an annual average of 3,382,200 violent victimizations, were not reported to the police. Of these, over a third (34%) went unreported because the victim dealt with the crime in another way Almost 1 in 5 unreported violent victimizations (18%) were not reported because the victim believed the crime was not important enough'.

percentage of non-SC population faces. To bring the 0.04% closer to the figure 1.19%, we must increase it by about 30 times. Even after that, the resultant figure has contend with the kinds of problems recorded in reports such as that issued by the Government of Karnataka (India), which shows that the government compensations offered to victims of the PoA acts as an incentive to lodge complaints on non-serious grounds of the PoA act, thereby inflating the number of cases of 'caste atrocities' (Bhat 2008).¹¹ Hence, when writer after writer claims that it is 'reasonable to conclude that the figures' related to caste violence 'are only indicative and do not reflect the actual situation on the ground' (Paswan & Jaideva 2003, 277), it cannot be a foregone conclusion that the figures for 'caste atrocities' ought to be higher. They may as well be lower.

Ramaiah claims that caste prejudice in society at large and in the police force in particular accounts for about 30% of caste violence cases going unreported. He arrives at this figure on the basis of the statement of a 'senior police official' in a personal interview, who says that in up to 30% of cases, the police threaten SCs in order to deter them from placing a complaint. While the nature of evidence that Ramaiah cites

¹¹ Note the section entitled 'Impact of Compensation and Prevention of Atrocities Act'. The entire report is available at: <http://planning.kar.nic.in/sites/planning.kar.nic.in/files/Evaluation%20Studies/5%20Atrocities.pdf>. The report notes that the government policy of compensation has 'created greed in some people to go for filing atrocity cases in some *silly cases*, creating disturbance in social relation.' (italics added; p. 345). Since, as the report shows, a majority of caste atrocity cases lodged are lodged for 'silly reasons', 'in majority of the cases the complainants take neither interest nor responsibility to pursue the cases. In some cases, they even plead ignorance about the status of the cases. The accused are dragged to the court and have to spend a lot of money' (p. 338). As the report further notes, the policy of compensating victims has 'given rise to instigators and middle men. The upsurge in the number of Prevention of Atrocities Act cases filed by the incentive of compensation has made some people of the other section to be jealous, on somebody in neighbourhood getting money from Government on the alibi of being abused verbally which is a common phenomenon in the day to day transaction between even friends and neighbours. Instead of developing a good relationship based on mutual dignity, a fear psychosis is making many people of the other sections to refrain from any transactions with the [SC] people, adversely affecting the livelihood opportunities for the poor village living persons dependent on farm labour. The supervisors in the offices are afraid to take actions on Scheduled Caste subordinates for the fear of being persecuted under Prevention of Atrocities Act, affecting efficiency of the offices as expressed by the officials in government offices and educational institutions, as reported by some under the conditions of maintaining anonymity' (pp. 345–346). For a more detailed analysis of the report in Kannada, see Shanmukha (2014).

and his absolute lack of concern for providing a more serious basis to his claims are obviously problematic, let us once again see what numbers we arrive at even if we take this off the cuff figure of 30% seriously. Let us do some basic calculations by taking the total incidence of crimes against SCs for the year 2011: 33,719 (see [Table 3.2](#)). What is the total number of crimes, if we were to include in the available figures the 30% who were allegedly prevented from lodging complaints? The figure we arrive at is 48,170, which would bring the figure for the total crime against SCs to 0.77%. This is still significantly less than the total crime faced by the rest of the population.

Yet, the conviction about the under-reportage of caste atrocities is so strong that scholars like Ramaiah can claim that a *majority* of cases go unreported. This contradicts the estimate of 30% he himself presents later, but clearly there is something about this conviction that allows serious scholars to make reckless claims without the need to present any kind of evidence for them.

If one takes seriously the claim that *most* 'caste atrocities' go unreported, this renders the data completely faulty, thereby rendering it completely useless. In the absence of credible data on caste violence, how do caste scholars come to the conclusion that caste violence is widespread and is constantly on the rise? In fact, how are they in a position to discuss caste violence at all? Yet, this has not proved a deterrent to caste scholars and human rights organisations generating reports on the issue.

We cannot explain this situation merely by raising doubts about the integrity of individual researchers or organisations. This makes it imperative to understand what role this caveat actually plays. These studies explicitly take the position that their estimates are merely indicative and not conclusive. They can only help guess at the extent of the problem, but 'for obvious reasons', as Ramaiah claims, can never arrive at any conclusive data. What are these 'obvious reasons' that make the collection of data for caste violence such a challenge?

Although it seems as if the caveat concerning under-reporting signals some dissatisfaction with mechanisms for collecting data or recording statistics in relation to caste violence, this cannot be the case. Why? Here are three reasons: (a) this caveat predates any

systematic statistical records of violence against lower caste people; (b) it persists in *all* studies about 'caste violence' whether or not they cite the available data and (c) studies that cite the available data use this caveat only to defend their claims about caste atrocities and to discredit this data. Thus, this caveat stands independent of the credibility or availability of data about caste violence. Since the caveat stands independent of the credibility or availability of data about caste violence, it is obvious that no amount of statistical data can serve to prove this caveat wrong.

If the conviction that caste violence *must be high* does not relate to data generated about caste violence, it can only be understood as an *a priori* claim, not a conclusion derived from empirical investigation. If it is not derived from empirical evidence, it can only be understood as one of the elements of an inherited narrative about the caste system (Balagangadhara 1994, 2012). In order to assess the validity of an *a priori* claim we would need to assess the strength of the premises which allow for such a deduction. Yet, none of the studies on caste violence tell us what the premises for this claim are, much less provide any defence of these premises. To say that Indian society is 'casteist' and therefore caste violence must go unreported is not to provide any logical support for the claim that caste violence must be high. It merely begs the question, how do we know that Indian society is 'casteist' and what implications does such a characterisation have? In order to begin to unravel this issue seriously we would require answers to the following questions: what aspect of the classical conception of the caste system generates this notion of caste violence? What logical compulsions provide strength to this characterisation and why is it that it acquires the quality of being so resistant to empirical contradiction? These are questions for future research. For now, let us continue with our analysis of the caveat.

If one notices carefully, this caveat does something quite remarkable. Absence of credible data, which should have raised questions about the plausibility of the research on caste atrocities, is now turned into evidence for, and an indication of, the magnitude of caste violence and the hold of the caste system on Indian society. Generally, in a field of study where data are faulty or the generation of reliable data is itself considered either difficult or only partially possible, the claims about the

field necessarily remain tentative. But this is not the case in the area of caste violence. The difficulty of generating reliable data actually strengthens the conviction that caste violence is intense. Thus, the difficulty of generating satisfactory data on caste violence ends up acting as *evidence* for the claim that caste violence is disguised and, therefore, more intense than it appears at the outset.

This raises a question. If caste violence is disguised, how do we know what to classify as caste violence? This is precisely what reports on ‘untouchability’ or ‘caste disabilities’ (the *soft data* on caste violence) grapple with. To understand how they solve this problem let us ask: where do they locate caste violence? It is not simply in acts of violence against SC individuals or groups; rather, it is everywhere – from mundane acts of limiting social interaction to economic patterns of land ownership to actual acts of violence. One consequence of this reasoning is that each scholar or investigator comes up with his/her own ad hoc notions of what constitutes caste violence, since the merits of the study or report lie not in the justifiable definition of what can be constituted as caste violence, but rather, only in the distance it can go in upholding the *a priori* claim that caste violence is high. Thus, *a priori* claim about the intensity of caste violence and the assumption that caste violence is disguised in various forms are clearly related and are both derived from a larger understanding about the caste system. Neither of these claims, however, can be empirically contested. After all, how will these scholars prove that some violence is *caste violence in disguise*? Or, if you prefer, how will these scholars prove that some violence is *not* caste violence, if it has the capacity to endlessly disguise itself?

Violence not Defined by Crimes Against Scheduled Castes

One of the outcomes of the caveat discussed in the previous section is a disregard for hard data. This is often expressed in the following way: ‘bald statistics convey little on their own’ about caste violence (Bayly 1999, 346; see also p. 345, fn. 4, for references to other similar opinions). In fact, amongst

studies on ‘caste violence’ those that rely on NCRB data are a relatively small number. The rest, which brings us to the dominant trend in studies on ‘caste atrocities’, tend to look at ‘violence’ in fairly broad terms and establish the violence of the caste system independently of data about the incidence of crime made available by the department of police in India.

In the study of an incident of casteism . . . it becomes clear, with a little experience and study, that . . . [t]he way official records are written, events understood, actions taken and reports filed by the government, police and the press are deeply infused with an upper caste bias – sometimes benevolent, often callous, malignant, or downright criminal. (Samata Sanghatana 1991, 2079)

Government records and reports, independent and credible research institutes, present an alarming picture of the situation of the people affected by caste-based discrimination and violence – an increased trend in the denial of basic livelihood rights, growing numbers of atrocities, high dropout rate of students, unabated land and labour rights violations, disregard to public health, denial of access to any place or service, obstruction of political participation, negligence of law enforcement authorities in filing complaints, undue delays in police investigation and trial of cases and low conviction rate, etc.¹² A report by the organisation Human Rights Watch reflects this approach:

Dalits are discriminated against, denied access to land, forced to work in degrading condition, and routinely abused at the hands of the police and of higher-caste groups that enjoy state’s protection. . . . Dalit men, women, and children numbering in the tens of millions work as agricultural labourers for a few kilograms of rice or Rs. 15 to Rs. 35 (US\$ 0.38 to US\$ 0.88) a day. (Narula 1999, 2)

Such comments today are commonplace in reports on the ‘plight of the lower castes in India’. This disregard and apprehension about hard data about caste atrocities has gone hand in hand with another predominant

¹² Op. cit. *Joint Stakeholders Report on Caste* (May 21, 2012 to June 1, 2012).

feature of writings on caste atrocities: exclusive reliance on anecdotal evidence. Most of these studies and reports on caste violence do not take up surveys of any kind but choose to derive their conclusions on the basis of a few interviews or 'fact finding' missions to the sites of atrocities. Providing discrete micro instances (individual instances of violence reported by victims and their relatives and friends) as evidence for an abstract macro claim (about the age-old caste system and atrocities it generates) would be considered a fallacy in any other field. In caste studies, however, this has been the dominant way of making the argument. Probably, this is not considered suspicious since the subject of 'caste atrocities' is much older than the NCRB data on crimes against SCs. But much more importantly, as the quotes above show, most studies claim that 'caste violence' is not a straightforward quantifiable category.

This has led to or aligned with another aspect of scholarship on caste atrocities: instead of relying on the study of crimes against SCs as the basis for their analysis of caste violence, writers have included a wide array of 'social disabilities' in the list of 'caste violence'. Consider some of the disabilities mentioned earlier: lack of access to education and public health facilities, unjust patterns of land distribution, labour remuneration irregularities, discriminatory practices in the kinds of work offered to SCs, etc. Since studies and reports on caste atrocities resort to collection of anecdotes, all kinds of the problems that an individual faces and/or relates, becomes evidence for the existence of caste violence in society. That is, what these studies do is document the occurrence of particular kinds of problems that large (if not all) sections of human beings across the world have been facing (which they predefine as being 'social disabilities') within samples of the SC and Other Backward Classes (OBC) population group. This makes for a staggering number of social problems being attributed to a single cause: namely, caste discrimination. Surprisingly, not a single one of these studies or reports makes even a perfunctory attempt to prove that it is in fact the so-called caste system that *causes* these 'social disabilities'. This is an assumption that guides their data collection, not a hypothesis that they take up for investigation. Therefore, they cannot claim to either prove or disprove it.

An interesting possibility opens up if one asks the question, what could serve as proof that 'caste discrimination' has ended? Consider the following excerpt:

From the data we have ample evidence to infer that caste still impacts and shapes in a major way the social and personal lives of people in the village under study. There are separate Gurdwaras for the Jat Sikhs (farming caste) and Chamars (Ad Dharmis – traditionally described as leather workers' caste); and Valmiki (also known as Bhangis – sweepers and toilet cleaners) families have their own Bhavan (place of worship). There are two cemeteries in the village: one for the Jat Sikhs and other for the Dalits (previously called untouchables). There have [sic] been no inter-caste marriage in the village and social mixing is kept to the minimum and that only takes place on special occasions. However, unlike the 1950s, Dalits are in majority and control the village socio-political affairs through Panchyat – a village council. 'Ritual' untouchability – a common practice in 1950s – has completely disappeared. There are no separate wells or residential areas. The village Dalits no longer work as farm labourers but seek employment in government sponsored projects, and in nearby city mills. This has enhanced their self-image and boosted their moral and motivation and they are challenging the hegemony of Jat Sikhs in the village affairs.... The latter are in minority and in a weak position due to the large scale emigration of their progeny to overseas countries. There is a rising middle class of Dalits, albeit in an embryonic form. (Ghuman 2008, 2)

In a village where the author claims the Dalits form 80% of the population and control the sociopolitical affairs of the village, 'caste still impacts and shapes' the lives of the people of the village. Clearly the author wishes to make the case that irrespective of their relative dominance, the SCs *still* suffer social disabilities. Consider what happens if one chooses to re-interpret the data Ghuman presents. He uses the above description of the village in order to make the case that the caste system is such a strong force that even when the lower castes are dominant, they still suffer social disabilities. One may use the same facts to argue that the practices constituted as 'social disabilities' simply do not obstruct social mobility, nor do they place any obstacles to the so-called lower castes taking on a position of dominance in the case study Ghuman presents above. And if 'caste-related social disabilities' continue whether the social status of the community is high or low, then one may logically reach the conclusion that caste does *not* affect the social status of groups.

Yet, the story of caste discrimination continues. It is also striking that the kinds of phenomena that are observed as ‘disabilities’ arising from the caste system, do not always get classified as disabilities. For instance, Ghuman sees the fact that different caste groups have different places of worship as a remnant of caste disabilities. Yet, such an argument about different places of worship used by different denominations among Christians or Muslims in India is not seen as a disability of any kind. Clearly, although Ghuman does not spell them out, there are assumptions that guide the general instinct to pick out such phenomena as facts about *caste disabilities*.

Finally, to cite these studies as proof that the caste system exists, or to use them in order to raise any dispute about whether the caste system causes violence is to be disingenuous. These studies cannot be used as evidence for claims that form the basic assumptions of their work. And the fact that data are generated does not show that the assumptions driving the research are correct. For instance, Herbert Risley is a well-known name in the area of caste studies. He produced perhaps the widest and most systematic anthropometric data on ‘caste’. Yet, no self-respecting caste scholar would attempt to defend Risley’s work today. We do not question the accuracy of Risley’s data; what we question is the unscientific and racist nature of the theory that guided Risley’s work. Similarly, the studies that document ‘caste violence’ do not form a defence of the theory that generates this notion.

Reporting Caste Atrocities: Trends and Strategies

An analysis of writings related to caste violence (comprising, letters to the editor, editorials, reports and research articles) published in the *Economic and Political Weekly* (EPW)¹³ over five decades from 1949 to 2000 show some definite trends in the way scholars have dealt with the

¹³ The journal originally called the *Economic Weekly* (EW), became the *Economic and Political Weekly* (EPW) in 1966.

issue. One of the most striking aspects of reviewing this literature is that one clearly finds that the idea of ‘caste atrocities’ is largely a late-1960s development, which ‘caught on’ in the 1970s. There is not a single entry in the *EPW* issues prior to 1968 on the issue of caste atrocities, even though writings on various aspects of caste start early in the 1950s. The first article on caste violence is a largely positive review of K. K. Singh’s work on ‘caste tension’ (*EPW* 1968, Vol. 3, no. 24). For the first reflection on ‘caste atrocities’, we have to wait until 1974 (see the editorial, *EPW* 1974, Vol. 9, no. 1–2). One can find frequent reports of, and reflections on, caste violence from this period onwards.¹⁴ This is also when Parliament instituted a committee to report on caste atrocities annually from 1974 to 1981. There is definitely a need to investigate what happened during this phase and to examine what kind of violence was picked out to be described as ‘caste atrocities’. We hope to be able to pursue that investigation in another article. For now, however, a review of this literature reveals how scholars have coped with contradictions brought up by the data on caste violence by using ad hoc strategies in their studies of caste violence.

As we have seen so far in the discussion, caste scholarship uses the term ‘caste violence’ or ‘caste atrocity’ to refer to the victimisation of ‘lower caste’ people by a wide variety of means. Who victimises the lower castes? Surprisingly, we find in caste violence reportage that it is not necessary that the perpetrator of atrocities or victimiser be an upper caste individual or group. Where upper caste persons are not involved, the ‘system’ – read ‘the caste system’ or/and ‘Brahmanism’ – is held responsible for the so-called atrocities. This is not a trend that we notice in some sloppy journalistic reportage in newspapers and tabloids. This trend is visible in the most scholarly writings of the last several decades that India has produced.

We have found about 60 relevant articles on or around ‘caste atrocities’ in 2283 issues of the journal (697 issues of *EW*, January 1, 1949 to

¹⁴ A search for ‘caste violence’ in <https://books.google.com/ngrams> shows the same result: an early mention in 1940s and an escalation in the early 1970s. A search for ‘caste atrocities’ shows that the usage of the word saw a sudden increase in the 1980s, and no mention before mid-1960s.

December 25, 1965 and 1586 issues of *EPW*, August 20, 1966 to December 30, 2000) over 50 years.¹⁵ Interestingly, Brahmins do not feature anywhere as perpetrators of violence in these articles of over 50 years. Only in one case is it alleged that a convict had the support of a Brahmin moneylender (Singh 1974). (Let us also document that support was allegedly extended not in carrying out any specific act of violence.) The articles, nevertheless, talk about ‘upper castes’, without always specifying who the upper castes are. In addition, one finds the following words and phrases liberally used in these writings while analysing the issue: ‘Brahmanical caste system’, ‘Brahmanical social setup’, ‘Brahmanism’ and ‘brahmanical model’. These words act as ‘explanations’ for the violence that has occurred. The caste system is violent *because* it is ‘Brahmanical’.

Thus, the Brahmins are attributed a disembodied power which allows them to wield a destructive influence on Indian society without any concrete personal involvement. None of the articles attempt to show what is ‘Brahminical’ about violence perpetrated by non-Brahmins. In fact, as we show below, much of this violence comes from castes that are not part of the classical ‘upper castes’ at all, but are part of what the government categorises as ‘other backward classes’ (OBC). What is ‘Brahminical’ about violence perpetrated by the OBCs?¹⁶ Such studies achieve the following: they explain the violence perpetrated by so-called lower caste groups by attributing the source of the violence to an upper caste group without any empirical evidence to show any connection between the two. In any other sphere of social science research, such work would be described as ‘a conspiracy theory’ and written off with disdain. In caste studies, however, it gains the status of a respectable knowledge claim, and earns its author degrees, positions and honours, in India and abroad.

¹⁵ Note that, a few issues of the weekly are missing from the *EPW* digital archive, available at www.epw.in/epw-archive.html. The numbers given here refer only to the issues available in the archive.

¹⁶ A letter written to the editor in 1992 (XXVII: 1–2, p. 2), commenting on a report about caste violence published in the journal expresses the following sentiment: ‘Accusing Brahmins’ has become ‘a convenient ruse to hide one’s own ugliness’.

While reporting the actual cases of atrocities, the authors name the castes that are allegedly responsible for the violence. While talking about ‘caste violence’ in abstract and generalised terms, that is, while theorising the violent incidents, they resort to generalised terms like upper castes, caste Hindus, Harijans, backward castes, Dalits and so on. This creates a very peculiar situation. Even when the violent incidents involve two ‘lower castes’, that is, a perpetrator and a victim who are both from ‘lower castes’, which is not uncommon, they get reported as ‘caste violence’ and are theorised as an incident of violence for which upper castes are considered responsible. This is possible because the terms like ‘Harijans’, ‘Dalits’ or ‘lower castes’ are empty categories and comprise of different castes and units of castes, as the case might be.

The laws against caste atrocities, such as the Prevention of Atrocities Act 1989, consider only SCs and STs as ‘lower castes’. However, in academic articles on caste violence, often even the OBCs are included under categories like ‘Dalits’ or ‘lower castes’ (e.g. Ghosh 1979). Ironically, they may also be categorised as ‘upper castes’ if the argument so requires. Not just that, violence amongst OBCs may also get characterised as ‘caste violence’. Consider the following example. In his lengthy report, K Balagopal, an acclaimed human rights activist of his time, a lawyer and a mathematician by training, provides a list of ‘known incidents of murder or large-scale arson perpetrated against Dalits by caste hindus in AP, post-Karamchedu’.¹⁷ On July 20, 1987, as the list mentions, ‘One dalit labourer was killed in a dispute over a small patch of tank-bed land by *a mob of backward caste farmers*’. While in the foregoing entry the perpetrators of crime are a bunch of OBC farmers, in the immediate next entry an OBC person is a victim. On August 13, 1987, ‘One person *of a backward caste* (Golla) killed in a mob attack by Kammās’. This game of shifting from one to the other, at will, continues in the list. Here is another example from the later part of the list: ‘About 180 houses of fishing community set on fire by a mob organized by

¹⁷ AP here refers to the erstwhile Andhra Pradesh state in the South of India, which includes the current states of Telangana and Andhra Pradesh. Karamchedu refers to a violent incident that took place in Karamchedu, Andhra Pradesh, on July 17, 1985, where 6 Dalits were killed and about 20 more grievously injured in an attack by the members of the Kamma caste.

prominent . . . *BC [backward caste] leader . . .*'. A few lines later we read, '*A backward caste* (Boya) farm-servant shot dead by his landlord, G Narayan Reddy' (italics added; Balagopal 1991, 2404). Note how the OBCs feature both as perpetrators as well as victims of the caste atrocities, as and when required.

As per the 2001 census data, the SCs comprise about 16.2% of the total population. There is, however, a lot of confusion about the population of OBCs. As per the Mandal commission report (1980), it is about 52%. According to a 2007 survey by the National Sample Survey Organisation (NSSO), the OBC population is 40.94%. That survey, however, puts the SC population at 19.59%. It is safe to consider then that the total SC, ST and OBC population in India is about 65% of the total population. That means, the reports on caste violence may document any violence ('disguised' or overt, as the case may be) that occurs amongst or against 65% of India's population as 'caste violence' and not violence perpetrated by about 15% of the population largely classified as 'upper castes' against this 65% of the population.¹⁸

A typical attempt to make the story of upper caste violence stick, even under immense pressure from the facts, takes the following form: 'Until the 1970s rural conflict/contradiction centred around uppercastes on the one hand and the dominant castes on the other. The second shift took place when dominant castes occupied the space left over by the upper castes, leading to new forms of contradiction [by contradiction the author means, conflict] between dalits and the dominant caste' (Assadi 1997, 2017). Assadi uses the term 'dominant caste' in order to refer to a variety of *jatis* (castes) that are classified under the OBC category. What is surprising is that the OBCs easily stand in for 'upper castes' now without any need to show how it is the caste system that is responsible for the OBCs becoming 'dominant' and not just socio-economic factors. The shift from 'conflict centered around uppercastes' to that driven by

¹⁸ The 2011 census data places the Hindu population at a little less than 80%. If the OBC+SC+ST is taken at 40.94 (the lower estimate by NSSO)+16.2+8.2 = 65.34%, then the so-called 'upper castes' would form 80-65 = 15% of the total population. Ref.: http://censusindia.gov.in/Census_Data_2001/India_at_glance/scst.aspx; <http://timesofindia.indiatimes.com/india/OBCs-form-41-of-population-Survey/articleshow/2328117.cms>.

‘the dominant castes’, the OBCs, that Assadi notes is precisely the shift that requires investigation. However, in the given scenario, the very developments that require explanation get either distorted or brushed under the carpet in order to uphold the larger classical story of the violent caste system. Thus, this story actually acts as a hindrance to understanding the very violence these scholars seek to investigate.

Conclusion: Seeking Alternatives

It is unclear why there is such a strong conviction that SCs as a population group are subject to atrocities in India. Some aspects of this question are answered in the chapters written by Jakob De Roover, Marianne Keppens and Martin Fárek in this volume. Unless we understand the background of the colonial story of the caste system better, we will not be in a position to assess what premises gave rise to such characterisations of India. At the same time, it is important that we understand also how certain developments in post-independence India got tagged onto available colonial descriptions such that these developments have still not been understood adequately. It seems fairly clear that events in the 1960s and 1970s ignited and fuelled interest in ‘caste atrocities’.

According to the 20-year ‘report card’ of the PoA:

Dalit and Adivasi representatives in the parliament and social activists put pressure on the government over the growing incidences which lead to monitoring ‘gruesome cases’ against SCs and STs from 1974 to 1981. The 80s saw another spate of gruesome violence finally resulting in the passing of the SCs & STs (POA) Act in 1989.¹⁹

An interesting study by K. K. Singh (1967) notes that the so-called caste violence is economic in nature and escalated with the Zamindari

¹⁹ *SC ST PoA Act 20 years report card*, prepared by the National Coalition for strengthening SCs and STs (Prevention of Atrocities) Act, available here: http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/SCST_PoA_Act_20_years_report_card_-_NCDHR.pdf.

Abolition and Land Reforms Act of 1963. In his review of Singh's work, Imtiaz Ahmad agrees that caste 'tension and conflicts' escalated in the post-independence India (1969, 894; see also, Patil 1979, 481). K. K. Singh, argues that '[a] study of inter-caste tension should be scientifically acceptable only when it defines the concept and quantifies it, revealing at the same time its sources and causes' (1967, 5). He further notes that scholars have completely failed to understand caste violence. In his ethnographic work in two villages of Uttar Pradesh, he argues that:

[The] land laws, fundamentally altered the character of the relationship existing between the Zamindar and the low caste people by removing the intermediaries between the State and the actual tillers of soil. . . . All at once a hiatus gaped in the traditional arrangement of life in the community, followed soon after by conflicts over the possession of land and the assertion of independence by the low caste people. (1967, 108)

While many have proposed that the relationships around land ownership are nothing but the economic manifestation of the traditional hierarchy of the caste system and the change in land relations is simply an 'assertion of independence' by the lower castes, Singh's study raises some dimensions that are usually silenced. He suggests, for instance, that upper castes too feel the same fear and unease as the lower castes and that 'inter-caste tension and conflict in our community cannot be accounted for in terms of discriminatory caste practices' (1967, 112). In other words, Singh suspects that holding the 'caste system' responsible for generating 'caste violence' is unjustified. Perhaps one way of proceeding on further research is to go back to this period and study what kind of violence led to the creation of the category 'caste atrocities'. However, scholars are busy today in presenting wealth- and market-related crimes as 'caste crimes' (e.g. Sharma 2015). While 'caste atrocities' are a legal fact under the SC and STs (Prevention of Atrocities) Act, the circumstances that led to the perceived need for new legislation have not yet acquired an appropriate explanation. If they had, then surely the study of caste violence would not be littered with more anomalies than explanations.

Studies of caste violence tend to place all legal provisions on caste on the same plane as one long struggle against the same set of circumstances loosely called the caste system and the violence it generates. Yet, the enthusiasm for new laws – most recently manifested in 2015 when the SCs and the STs (Prevention of Atrocities) Amendment Act, 2015 heavily amended and expanded the 1989 Act without any parliamentary debate – has not been matched with new insights, and as a result, at the most fundamental level, we are unable to establish how we should define caste violence. How do we establish that some violence has been committed for ‘casteist’ motives rather than out of personal or economic or any other motives? The law solves this problem by simply registering any case of violence against an SC by a non-SC as a ‘caste atrocity’ and promptly providing compensations at various levels for any such crime registered under the PoA.

It is striking that the Central government’s expenditure on the PoA has gone from INR 38.31 crores (0.38 billion) in 2005–2006 to 127.65 crores (1.2765 billion) in 2013–2014.²⁰ This does not reflect the total expenditure related to the implementation of the Act since each of the state governments also match the centre’s expenditure by 50%. For the year 2013–2014, then, the total expenditure would be over INR 200 crores (2 billion). These expenses go towards compensation, legal aid to victims, covering travel expenses incurred by the victims, the establishment of special courts, special cells in police stations, sensitisation programmes, as well as, surprisingly, incentives for inter-caste marriage.²¹ In other words, in less than 10 years, the expenditure related to the PoA has increased fourfold while we have been unable to settle with any clarity what constitutes caste violence and therefore, what measures could curb it.

This is a serious matter to investigate not just because of the economic implications of the waste of public resources. India faces serious criticism from many international agencies on the basis of reports that project a

²⁰ The report for 2005–2006 is available here: <http://socialjustice.nic.in/pdf/arpoa05.pdf>; and the report for 2013–2014 is available here: <http://socialjustice.nic.in/pdf/arpoa13.pdf>.

²¹ See Appendix IV of *Report U/s 21 (4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, for the year 2013* at <http://socialjustice.nic.in/pdf/arpoa13.pdf>.

great deal of ‘caste violence’ by generating slippery definitions of the same. For instance, in 2007 Human Rights Watch generated a ‘shadow report’ called ‘Hidden Apartheid: Caste discrimination against India’s “Untouchables”’ in response to India’s official submission to the United Nations Committee on the Elimination of Racial Discrimination (CERD), which monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). As a result, India was reprimanded by CERD.²² Yet, this report is no different from the myriad others produced on the subject, which, as we have shown above, do not even take the preliminary step that is required in order to validate their claims. They document problems faced by one section of the population *as if* the problems are exclusive to this population. Such reports serve not just to generate international outrage but also fuel faulty and damaging legislative moves like the inclusion of caste in the discrimination laws of the United Kingdom as Prakash Shah (this volume) shows. Before we can hope for sound legislation, we must pursue sound understanding, which can only be the outcome of much more research on the source of the current assumptions guiding caste studies on the one hand and generating new models to understand the Indian reality on the other.

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²² Ref. <http://www.hrw.org/news/2007/03/11/india-un-finds-pervasive-abuse-against-dalits>.

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4

Dissimulating on Caste in British Law

Prakash Shah

The caste system is one of the most prominent global images of Indian culture and society. ‘When thinking about India it is hard not to think of caste’, says Nicholas Dirks (2001, 3) when opening his book on caste. The picture of the caste system is regularly projected both within India and increasingly so in Western settings such as the United Kingdom and United States where Indians have settled over the last few decades. The constant iteration of the caste system reinforces the impression that there is some stability to the idea and that its referent is existent. At the same time, multiple accounts and ideas of the nature of the caste system exist (e.g. Banerjee-Dube 2008), and there is, it appears, no consistent and coherent theory of caste out there (Jalki and Pathan 2015). Several chapters in this book question the classical conception of the caste system. This chapter examines one such invocation of the caste system in the context of the enactment of the Equality Act 2010 in the United Kingdom which

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contains the first provision on caste discrimination in the anti-discrimination legislation of any country, as well as in the linked case law.

The research on the caste legislation in the United Kingdom over the previous three years, on which this chapter is based, has also involved working closely with several UK Indian organisations. The leaders of such organisations have had doubts as to the aims, the consultative process and the research allegedly justifying the caste discrimination legislation as well as having fears about how the legislation would affect the self-organisation and associational freedoms of their communities. The battle against the legal provision on caste has enabled, even forced, the rallying together of various actors within the British Indian communities. It may be that the mobilisation around the caste question triggers the kind of consciousness within the Indian community as other formative events have led to the increasingly vocal stance taken in the diasporic Indian community of the United States (Ramaswamy et al 2007; Juluri 2014; Venkat 2015). Although the Hindu communities in the United Kingdom have normally been regarded as politically passive, this precedent was broken with when two Hindu organisations in the United Kingdom issued manifestoes in advance of the General Election of May 2015 which spoke of their wish to see the end of the caste legislation, a move which other organisations and prominent individuals also supported. While there is a declared antipathy for the legislation, it has not been clear to the leaders of these organisations how they can challenge it given the overwhelming weight in favour of the view that the caste system is a discriminatory institution against which it can only be correct to legislate.

In the history of anti-discrimination law in the United Kingdom, it is the first time that Parliament proceeded to legislate on the *assumption* that a problem existed without first conceptualising the nature of the problem. The involvement of academics in the consultative and research exercises that surround the Equality Act's provision on caste has meant their co-option in and support of what has seemed like a preset juggernaut-like agenda for legislation in that field. Indians can be accused, as one of the academic proponents of the new law, Annapurna Waughray (2012) does, of practising 'apartheid' without a murmur of protest from any section of academia. Similar accusations have been made before the

House of Representatives (2005) in the United States, *inter alia*, by Indian academics and NGO workers.

This chapter is aimed at being part of a critique of the published accounts about the caste discrimination problem in Britain and the need for a legislative solution to that perceived problem. These accounts can be found in the British parliamentary debates that took place in 2010 and 2013 when the caste provision was being discussed. Alongside these is the report issued by the National Institute for Economic and Social Research (Metcalf and Rolfe, 2010), commissioned by the government in order to assess the presence of caste discrimination and thus whether the legislation was justified. The Equality and Human Rights Commission (EHRC), the official British anti-discrimination body commissioned an academic team (1) to make a review of existing socio-legal research on British equality law and caste and (2) to hold two supporting events (for experts and stakeholders, respectively) to seek views on the statutory provision on caste. In turn, that team produced two reports (Dhanda et al. 2014a; 2014b). This chapter also reviews the leading British case law by which judges have effectively overtaken the implementation of the statutory provision on caste by deciding that caste is already covered by the Equality Act.

This chapter attempts to demonstrate the indefensible handling of the caste discrimination question in the UK law. Legislators show a lack of awareness of the differences between legislation in India and the wider South Asian region, on the one hand, and the British Equality Act model, on the other. Despite these differences, and despite lack of knowledge of them, the existence of laws in these countries acts as a justification for legislation to be enacted in the United Kingdom too. Throughout the chapter, we see evidence of the tawdry ways in which issues of research and evidence about caste discrimination are handled by both parliamentarians and, worse, by academics and researchers. Even though the research has been unable to demonstrate a need for legislating, it has been misrepresented to tell the opposite story, that is, to justify legislating. Similarly, we see several ways in which allegations of caste discrimination are falsely founded, occasionally brought through the courts, and disingenuously used to make claims about the need for legislating. This chapter conclusively shows that despite the lack of evidence of

caste discrimination, the case law is touted as proof positive of the existence of such discrimination has. In fact, it has been part of a show trial lacking in substance. In the background is the overwhelming presence of the classical conception of the Indian or Hindu caste system acting as a guiding principle to conduct research, to interpret results, to justify legislation, to conduct litigation and to allocate costs. This chapter supports one of the central claims of this book, which is that the normative conception of the caste system is a presupposition that also acts as *the explanation* of facts about Indian culture and society, which now encompasses in its scope the Indian diaspora. In other words, isolated facts are brought together and marshalled to act a proof positive for the existence of the caste system, although the making of such claims would be impossible unless the caste system is also presupposed.

Legislating on Caste in the United Kingdom: The Equality Act 2010

The United Kingdom's Equality Act 2010 creates a potential new ground of legal action for discrimination on the ground of 'caste'. Among other things, this will allow legal claims for damages to be brought for caste discrimination. The original wording of section 9(5) of the Equality Act made it *discretionary* (may) for a minister to pass secondary legislation to make caste 'an aspect of race'. The Act was amended in April 2013 to make it *mandatory* (must) for the minister to make an order adding 'caste' to the existing elements constituting race, that is, colour, nationality and ethnic or national origins. The relevant minister is therefore obliged to bring the provision into effect. That has not yet happened because of the controversy the caste clause provoked, including opposition from some Hindu, Jain and Sikh organisations. Since the General Election of May 2015, the possibility of the provision being brought into effect is more remote than before to the extent that the Conservative government has not supported it. However, making predictions as to the law's demise may be foolhardy, given the changes in government after the Brexit vote

and the continued pressure from the pro-legislation lobby.¹ Besides, as discussed below, the question of implementing the legislation is now mixed up with the case law as developed by judges to cover caste discrimination.

Given that none of the above-mentioned official reports, nor those reports issued by NGOs or academics, seriously addresses how the caste clause fits into the structure of the Equality Act, it is worth examining this briefly. The Equality Act 2010 consolidates and builds on earlier anti-discrimination statutes, and allows for tort-like civil legal actions to be brought by claiming an act of 'direct' or 'indirect' discrimination, victimisation or harassment. Besides 'race' (of which caste is to be made 'an aspect'), such actions can be brought on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief, sex, and sexual orientation. The Equality Act covers various domains such as employment, partnerships, entry to a profession, provision of goods and services, housing, education, bodies conferring qualifications, trade unions, professional or trade organisations, local authority activities and the exercise of public functions. Civil actions for caste could arise alleging the occurrence of any act of discrimination in the United Kingdom, no matter what the nationality of origin or the location of the head office of a business. An action for caste discrimination could therefore also be directed to an Indian company doing business, hiring employees, or having a branch office in the United Kingdom. Such civil legal actions can include claims for compensation, including for injury to feelings, aggravated damages for malicious behaviour and interest on any compensation. In an employment case, an Employment Tribunal can also recommend that the employer take action to correct the situation or limit the damage done to the claimant. The EHRC also has legal powers to conduct investigations of any organisation and these could be

¹ While the post-Brexit referendum cabinet was still being appointed, a further attempt was made by the pro-legislation lobby to call the government to account for failing to implement the caste provision. House of Lords Debates, 11 July 2016, cols. 81–95.

extended to cover caste discrimination. Other methods include inquiries, assessments, issuing unlawful act notices and compliance notices. Businesses or community organisations could face specific investigations or other intrusive actions on grounds that caste discrimination is suspected.

In the process of expanding anti-discrimination law over the years in the United Kingdom, different sorts of exceptions have also been made, for sex, disability, religion or sexuality, to limit the scope of actionable discrimination. Legislators have tended to consider carefully the extent to which the public interest required the scope of legal provisions against discrimination on a particular ground to be reduced or enlarged. For example, wide exceptions allow certain services to be provided according to religious criteria.² Not to provide broad exceptions for religious conscience would be potentially very destabilising because, suddenly, all types of highly disruptive claims of discrimination may be coming forth. Not only has little debate taken place about the propriety of introducing caste as a ground for discrimination but no serious consideration or research has been devoted to what the proper scope of the caste provision should be. In so far as it is aimed at curbing any mischief, the scope of the caste provision is rather ambiguous. This issue is made even more pressing given that the case law discussed below has sped ahead and read caste into the provision on race even though the specific clause on caste has not yet been brought into effect. As the following sections of this chapter convey, those most exposed to claims of caste discrimination and subject to investigation would be Indian professionals, Indian-run businesses and other organisations, as they are the presumptive discriminators under the legislation and developing case law. These developments in the case law also introduce the prospect of caste-based crimes, a dimension that has received no scrutiny in the public debate.

² See, e.g. Equality Act 2010, section 29(8), section 33(6), Sch. 23, para. 2, and Sch. 9, para. 273.

The Comparative Legal Context

It should be striking to anyone comparing the British and Indian approaches to caste how the legislation is differently structured in each country. As already outlined, the British caste provision is attached to the prevailing model of anti-discrimination law. It bears little resemblance to the Indian or the wider South Asian legislation on caste. Also striking is the general ignorance among parliamentarians of these differences. The model chosen for caste discrimination claims in the Equality Act makes the United Kingdom a unique example of using its civil anti-discrimination legislation for targeting caste discrimination. Indian legal provisions on caste are based upon two quite different models. They are focused on providing for criminal sanctions under the caste atrocities legislation (discussed by Jalki and Pathan, this volume) and on preferential reservations (quotas) for groups that are specifically listed in legislation. Such a list currently figures in the Constitution (Scheduled Castes) Order of 1950 and varying legislation at the level of different Indian states, although the idea goes back to the British colonial period. Indian law therefore makes no demands on judges to *define* caste, and the Indian legislation devoted to setting out reservation schemes is not an invitation for an open-ended set of litigation claims as the UK legislation is. It is also true, however, that the post-colonial Indian set up has led to a competitive battle by various *jati* groups to get onto reservations lists as seen in the recent claims by Patidars in Gujarat or Jats in Haryana. That the continued expansion of reserved status in India has damaging effects, as outlined by Shourie (2012), is often privately acknowledged but political constraints and electoral considerations considerably reduce the possibility that it will be overturned anytime soon. No criticism of the Indian reservation system is audible in the British debate.

There is no tested model of the kind the United Kingdom is supposed to bring into force, and the Indian case law will not help establish guidance for when an act constitutes 'caste discrimination'. UK lawyers and judges will effectively be going alone into an area which they scarcely understand, and where the social science literature and expertise is

confused. As instantiated further below, the many ‘experts’ on caste available in India and the West will not be able to provide a coherent response to what caste is. Indian criminal law on caste atrocities, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (see Jalki and Pathan, this volume), is periodically widened, most recently in 2015, to capture more and more areas of ordinary life. It is applied only to crimes against those listed in legislation as Scheduled Castes and Scheduled Tribes and thus presupposes that only some groups are exposed to the enumerated atrocities. While the advocates of the UK legislation also contemplate members of only some groups as perpetrators of discrimination, in keeping with its existing structure, the legislation is itself neutrally worded. It may of course still be applied against some groups and with implicit presumptions as to who are the perpetrators and victims of discrimination. While affirming the truth of a caste hierarchy which is presumed to sanction discrimination by upper castes against the lower castes, advocates for the legislation also have to reconcile to the formally symmetrical shape of the legislation. This seeming contradiction is alluded to several times in the EHRC’s *Experts’ Seminar* report. For instance, it mentions: ‘the legislation would apply symmetrically to all regardless of the caste hierarchy’ (Dhanda et al. 2014a,b, 30). As we will see, however, the British debate and case law reflect the presumption of discrimination against and by certain categories of people thus bringing back in the idea of presumptive victims and perpetrators of discrimination.

Pakistan and Bangladesh, the second and third largest South Asian countries respectively, have no specific legislation on caste. However, as with Nepal there are limited reservation schemes for some caste and tribal groups. Nepal passed a criminal law in 2011, the Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2068, which is widely drafted to capture a variety of practices associated with tradition. Mauritius has a constitutional provision (section 16) stating that no law may discriminate inter alia on grounds of caste, but with wide exceptions for personal laws. If applied in India, a provision such as that included in the Mauritius constitution would make unlawful the Indian system of caste-based reservations and, indeed, the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act. The Bangladesh Constitution (article 29) also similarly prohibits discrimination *inter alia* on grounds of caste although it does allow special provisions for ‘any backward section of citizens’.

Proponents of the legislation in the United Kingdom tend to portray the legal situation in South Asia, especially India, incorrectly or they appear not to have much grasp of it. For instance, Lord Harries, a former Anglican Bishop of Oxford and one of the chief proponents of the 2010 and 2013 amendments on caste, argued that the United Kingdom should have ‘very firm legislation in place, *as there is in India*, prohibiting discrimination in the areas of employment, public education and public goods and services’.³ In 2013, Lord Deben referred to Nepal and Bangladesh, arguing, ‘All we are saying is that we would do in this country what other countries have already done. It has not been seen as an insult to religion there, so that is not a reasonable argument’.⁴ In a July 2014 House of Commons debate, Jeremy Corbyn MP, then trustee of the Dalit Solidarity Network and member of the All-Party Parliamentary Group for Dalits weighed in. Referring to B. R. Ambedkar, who is widely thought of as the architect of India’s constitution, he noted that:

The Ambedkar constitution is an excellent document. Dr. Ambedkar was himself a Dalit. *It absolutely outlaws discrimination* and has some provision for protected employment for people of the scheduled castes. It is a very effective document, but raising these matters with the Indian Government or the Indian high commission is extremely difficult; they are quite resistant to having good discussions about it.⁵

Corbyn fails to notice the contradiction in the claim that the Indian constitution ‘absolutely outlaws discrimination’ while stating that there is ‘provision for protected employment’. Notwithstanding any benign aims behind reservation for some castes in state employment, it is obvious that any attempt to achieve them through reservations would have to discriminate against those not entitled to them. In fact, it is

³ Lord Harries, House of Lords Debates, 22 December 2010, col. 1099, italics added.

⁴ Lord Deben, House of Lords Debates, 22 April 2013, col. 1309.

⁵ House of Commons Debates, 9 July 2014, col. 138WH.

widely understood that the Indian legal system regularly responds to social unrest because of resentment about exclusion from reservation by expanding the beneficiaries of such discrimination.

While none of the mentioned parliamentarians betrays a grasp of the Indian or wider South Asian legislation on caste and its differences with what was proposed for the United Kingdom, no other accounts could be found showing some measure of knowledge of the differences prevailing between the legal systems in respect of caste. This indicates that parliamentary discussions ended up only misrepresenting any comparisons between South Asia and the United Kingdom without being corrected. One of the consequences of fudging the differences between the Indian and UK legislation is that it avoided having to provide an adequate explanation why the UK model of equality law, premised as it is on imposing liabilities in civil law that extend to damages and other related consequences, should be accepted as the appropriate model for addressing any social ills that caste might produce. Such a justification would have been especially important to provide given that the United Kingdom is the first jurisdiction to have a specific provision on caste in its anti-discrimination law.

While there is a demonstrable lack of awareness in the contemporary British debates about the nature of the legislation in India and other South Asian countries, we see the simultaneous emulation of the kind of acrid discourse on caste that has been emerging especially in India during the past few decades. As other chapters in this book show (see chapters by Balagangadhara, Fárek, Keppens and De Roover), that discourse is structured around Western ideas about India that depend on Christian theological reflections to make them intelligible. Although lacking access to the structures that would enable such a discourse to be intelligible, the Indian intelligentsia appear to have shown a remarkable ability to keep afloat the Western ideas about the Indian caste system. Although British Indians often say that they have no experience of caste discrimination, such avowals are frequently met with allegations of disingenuousness. British Indian communities are now confronted by the curious ricocheting into the diasporic context of what, to most, are neologisms such as 'Dalits', 'Scheduled Castes' or 'untouchables', that reinforce the stranglehold of colonial consciousness and deny their experience (Balagangadhara 2012).

What is the Target of the Law on Caste?

The potential educational impact of having caste included in legislation was invoked repeatedly during the parliamentary proceedings.⁶ The efficacy of the UK legislation being able to achieve a change of attitudes about caste over the government's counter-proposal of a method of conciliation is thus presupposed (as no debate took place on the merits or demerits of each model). The National Secular Society (2013), an NGO with close links to some of the parliamentarians advocating legislation on caste, had the following to say in favour of legislating:

We argued that a failure to legislate would also burden the oppressed with continually challenging caste discrimination wherever and whenever it occurred; pointing out that there is, by definition, an enormous disparity of power between the higher and lower castes which informal, voluntary conciliation simply cannot address. We argued that adding caste as an aspect of race in the UK would establish a clear means to protect people from discrimination on the basis of their caste because we will have the clarity of law required. This in turn would help bring about the change in behaviour required (as Equality Law has done in other areas in the past, for example on race and sex).

The main grounds favouring the law in the United Kingdom thus appear to be clarity and the behaviour change that would result but, as mentioned, these are presupposed rather than reasonably explained. The National Secular Society statement makes it appear as though there is a trade-off between suing for discrimination and having legislation in place. In other words, having legislation would obviate the need to go to tribunals and courts. This buys into the same fallacy that says that having legislation would ensure clarity. Not only is legislation there to

⁶ See the speeches of Lord Harries, Lord Deben, Lord Avebury, Baroness Flather, Lord Bishop of Hereford and Lord Lester, House of Lords Debates, 4 March 2013, cols. 1295–1316. Contradictorily, parliamentarians insisting on legislation did not support the government's contention that educational programmes would succeed: Jeremy Corbyn, House of Commons Debates, 16 April 2016, col. 219, and Chuka Umunna, House of Commons Debates, 16 April 2016, col. 228.

enable legal challenges to be made but, as discussed in this chapter, there is far from being any certainty about the existence and nature of caste oppression. The National Secular Society fails to point to any research demonstrating the ‘enormous disparity of power’ between so-called higher and lower castes. Their statement implies that the legislation would inculcate a change in behaviour among the ‘upper castes’ (or ‘higher castes’) although it has nowhere shown that the upper castes are the unidirectional perpetrators of discrimination. As Jalki and Pathan (this volume) point out with respect to claims about caste violence in India, if members of ‘lower castes’ discriminate among one another or against the ‘upper castes’, the legislation would lose its basis. It is, furthermore, far from clear whether the presence of existing anti-discrimination law in the field of race relations has induced a change in behaviour such that discriminatory practices have diminished or has merely transformed their nature so that the most obvious ones have ‘gone underground’ (Ballard and Parveen 2008). Therefore, even assuming the accounts of discrimination against lower castes or Dalits are well grounded, it is quite likely that the claimed-for educational ambitions of those promoting the legislation are not going to be met.⁷

Citing the number of Dalits in Britain is one of the ways in which the size of the discrimination problem is sought to be substantiated. According to this strategy, the number of Dalits is meant to point to the size of the discrimination problem. After all, the standard accounts present Dalits as self-evidently at the receiving end of discrimination at the hands of the upper castes. Thus estimates of the Dalit population have been cited as ranging from anywhere between 50,000 and 200,000 (Lord Avebury), to 500,000 (Lord Harries).⁸ In the 2013 debates, Lord Deben claimed, ‘There are, after all, fewer Jews in this country than there are Dalits. They are wholly protected under the laws. There are

⁷ For a recent example, see Bhopal (2016) discussing how, within higher education in the United Kingdom, discriminatory behaviour towards ethnic minority staff, including bullying, as well as its toleration, co-exists with the equality legislation and university policies against discrimination.

⁸ See Lord Avebury, House of Lords Debates, 11 Jan 2010, col. 332, also citing the lack of detailed research, and Lord Harries, House of Lords Debates, 11 Jan 2010, col. 335. The figure of between 50,000 to 200,000 goes back at least to the report by the Dalit Solidarity Network UK, *No Escape – Caste Discrimination in the UK*, 2006.

fewer Sikhs in this country than there are Dalits, but they are wholly protected under the laws'. This leads to the suggestion that the number of Dalits was something over 423,000, and thus somewhat closer to the figure favoured by Lord Harries.⁹ In the House of Commons debate of July 2014, Jeremy Corbyn MP, trustee of the Dalit Solidarity Network and co-chair of the All-Party Parliamentary Group for Dalits, declared, 'There are roughly 1 million Dalit people in Britain'.¹⁰ Quite apart from the perennial ambiguity about who exactly a Dalit is, as the suicide in 2016 of Hyderabad University student, Rohit Vemula, brought into focus¹¹, these figures of the contended-for Dalit population are not based on any official information or reliable research. The way in which the figure for the Dalit population was picked out of thin air, so to speak, and then inflated, points, at best, to a push for legislation without due care.¹² At worst, it suggests a deliberate effort to invent a substantial discrimination problem in the United Kingdom without an evidence base.

In India, the word 'Dalit' tends to be used to refer to those in the lists of Scheduled Castes and Scheduled Tribes but no such lists exist in the United Kingdom, while those using the term do not explain whether or not they have in mind the *jatis* listed in the Indian legislation, although this may be implied in the way discussions on caste discrimination have taken place. In his foreword to the Dalit Solidarity Network's report, *No Escape: Caste Discrimination in the UK*, Jeremy Corbyn (now leader of the Labour Party) describes his experience and thus provides some clues

⁹ In the 2011 Census over 263,000 respondents were counted in England and Wales as answering 'Jewish' to the voluntary question on religion, while over 423,000 people identified as 'Sikh'. See 'Religion in England and Wales', Office for National Statistics, http://www.ons.gov.uk/ons/dcp171776_290510.pdf.

¹⁰ House of Commons Debates, 9 July 2014, col. 138WH.

¹¹ 'Ajit Doval gets report saying Rohith Vemula was not a dalit', *Times of India*, 28 January 2016; <http://timesofindia.indiatimes.com/india/Ajit-Doval-gets-report-saying-Rohith-Vemula-was-not-a-dalit/articleshow/50749810.cms>; 'Rohith Vemula is Not a Dalit, Say Telangana Police', *New Indian Express*, 27 February 2016 <http://www.newindianexpress.com/states/telangana/Rohith-Vemula-is-Not-a-Dalit-Say-Telangana-Police/2016/02/27/article3299210.ece>.

¹² How the number of Dalits and other information was presented in Parliament is encapsulated in the video, 'The Lying Lords of London' issued by the National Council for Hindu Temples (NCHTUK), <https://www.youtube.com/watch?v=z5-XQdingHo#t=75>.

about the confusion among proponents of the legislation as to who Dalits are:

I first became truly aware of the extent of caste discrimination in India, and of the resistance to it, when I attended the World Social Forum in Mumbai in January 2004. I had been aware that there was such a system, and that it did affect many poor people, but the reality of it struck home in that experience. There were several thousand Dalits at the World Social Forum protesting about the vicious effects of the caste system in India and other countries of South Asia. Hundreds of them marched, dancing and beating their drums, objecting to being regarded as the polluted outcasts of society. I then learnt more about the problem when I met a group of Dalit activists on a second visit to Mumbai in February 2006. I was therefore horrified to realise that caste discrimination has actually been exported to the UK through the Indian Diaspora. The same attitudes of superiority, pollution and separateness appear to be present in South Asian communities now settled in the UK. This is an issue the Government and all those concerned about good community relations must address. Any discrimination, of whatever kind, is unacceptable and must be both legislated against and challenged by all appropriate means.

Clearly, Corbyn has in mind the Indian ‘caste system’ which forms the prism for his experience. Beyond that it is not clear whether those affected by discrimination, the Dalits, are the poor, the ‘polluted outcasts of society’, or those subject to the ‘attitudes of superiority, pollution and separateness’ presumably by those who are not so subject. Since the word Dalit means ‘the oppressed’ or ‘the broken’, perhaps proponents of the law want to refer to oppressed people in general or at least those oppressed as a result of their caste membership. Beyond that, the term has no clarity. However, Corbyn also relies on the trope of a caste system and, by at least some accounts (e.g. that of James Mill; see Dirks 2001, 33; Shah 2015, 7), such a system enslaves Hindus in general and not merely a segment of them, thus making for even greater confusion. The presentation of the figures for Dalits is also distortive of our understanding of any discrimination problem because it ignores any discrimination among Dalits or the so called ‘lower castes’. It also discounts, without explanation, the possibility that discrimination may be

experienced by ‘upper castes’. One can notice, in some respects, parallels with the manner in which data on caste violence in India are presented (see Jalki and Pathan, this volume).

Indeed, the publicity and debates on caste discrimination in the United Kingdom (as in India and in the United States) can be seen as creating or perpetuating stereotypes. The discussions reveal how, while ‘lower castes’ or Dalits are presumed to be the victims of discrimination, the ‘higher castes’, ‘orthodox Hindus’ or Brahmins (or those following Brahmanism) are said to be the perpetrators of discrimination.¹³ Besides reinforcing stereotypes by stipulating a class of discriminators and a class of victims according to the prescribed caste system, proponents of such a scheme create an ‘asymmetrical cognitive burden’ against the former, such that the ‘dialogue’, rather than being a way of reducing or resolving conflict, constitutes a violent move (Balagangadhara and Claerhout 2008). Being a Hindu herself and claiming to rely on her insider knowledge of Hindus, Baroness Flather spoke as follows during the 2010 parliamentary debates:

We keep coming back to the Hindu Forum and the Hindu Council, which are formed by caste Hindus—the three upper castes. Some of us here are Hindus and we know about this. I know perfectly well what kind of people they are. They feel that to consult them about caste discrimination is to cast aspersions on them, as if one is saying, ‘You are the lot who are discriminating on the basis of caste’. They are not going to admit that they discriminate; no one does.¹⁴

Although she claims to know ‘perfectly well what kind of people they are’, it is unclear how Baroness Flather became aware that the organisations in question were (or are) composed of the three upper castes, nor

¹³ In a Vichar Manthan debate with the present writer in Leicester on 23 January 2016, Satpal Muman, Chair of CasteWatch UK, described the perpetrators of caste discrimination as ‘orthodox Hindus’ and ‘orthodox Sikhs’. Although, like upper and lower castes, the term ‘orthodox Hindus’ (or ‘orthodox Sikhs’) refers to no definite identifiable caste or other group(s), it is widely in circulation and is found many times in Ambedkar’s writings. See also Jaffrelot (2005) and Waughray (2009).

¹⁴ House of Lords Debates, 11 January 2010, col. 343.

how the other Hindu members of the House of Lords share her diagnosis.¹⁵ While there is certainty about the ‘fact’ of upper castes routinely discriminating, denial of discrimination by upper castes and the organisations they form is also a visible theme. In the EHRC’s *Experts’ Seminar* report (Dhanda et al. 2014b, 7) Meena Dhanda, the head of the EHRC project and one of the report’s co-authors, refers to ‘why some “upper” castes persistently deny the existence of caste prejudice’. Elsewhere, Dhanda (2015) similarly claims that the present writer is among those ‘deniers of caste’. Challenges to the legislation on caste are thus met with unproven claims that one is simply denying caste. As the National Secular Society (2013) has it, the legislation is challenged because of ‘vested interest’ or, as Baroness Flather puts it, the ‘kind of people they are’.¹⁶ Alternative explanations for why those challenging the need for legislation might be doing so, such as the not infrequently made claim that indeed discrimination on caste grounds is unheard of, are ruled out by attribution of beliefs or mental states.¹⁷ Balagangadhara and Claerhout (2008) have shown how the ‘dialogue’ is structured by this kind of manoeuvre. The attribution of implicit premises to Hindus to explain their practices presupposes the truth of and logically compels Hindus to defend (in this case) an oppressive caste system. Thus Hindus have no choice but to enter the ‘dialogue’ as either supporters or

¹⁵ Some Hindus clearly do not share Baroness Flather’s views and have taken a position against the legislation. See, for example, Lord Dholakia, House of Lords Debates, 22 April 2013, col. 1312; Lord Popat, House of Lords Debates, 11 July 2016, cols. 83–85.

¹⁶ While the 2013 document of the National Secular Society refers to vested interest of some Hindu organisations, a subsequent article, ‘Cameron “Blocks Ban on Caste Bias”’, *The Sunday Times* 21 December 2014, refers to an unnamed Whitehall source claiming that the ‘vested interest’ blocking implementation of the caste legislation was connected to ‘wealthy Hindu businessmen’. The National Secular Society’s Executive Director is also quoted in the article. The similarity of language may not be coincidental.

¹⁷ In this light the status of factual scenarios that should act as anomalies for the dominant account becomes very ambiguous. Jon Ashworth, a Member of Parliament for a Leicester constituency, provided one such potential anomalous situation when he said, ‘I have never seen any evidence of caste discrimination in Leicester’. The observation acquires greater significance if one considers that the density of the South Asian population (Indian, Pakistani, and Bangladeshi) in Leicester is some six times that in England and Wales as a whole. E-mail communication from Jon Ashworth, 5 June 2013. Similarly, see Alok Sharma MP, House of Commons Debates, 16 April 2013, col. 234.

opposers of an oppressive caste system, the existence of which is presupposed in the dialogue.

As an indicator that this sort of attitude is not restricted to Britain, but is shared more widely, we can cite an American academic who also attributes the same implicit premise of caste oppression to her Indian students in the United States. Recollecting her discussions with these students, Kent (2005, 236–237) says that because of the racism and xenophobia experienced by them in the United States:

One can see why students of Indian descent would deny that caste even exists in India anymore and insist that it has effectively disappeared as a significant factor in social life. Though this response is understandable, it is patently wrong. In the same way that white people in the U.S. are more inclined to believe that racism has disappeared from this country, people from upper-caste groups are more likely to claim that caste discrimination no longer exists in India, while members of low-caste groups know from experience that it does.

This and other statements like it are indicators of the pervasive dismissal (it is ‘patently wrong’) of accounts by Indians that caste does not play a role as a discriminatory institution (which ‘low-caste’ groups already ‘know from experience’). Her different treatment of, in Kent’s case the accounts provided by her ‘upper-caste’ students and the members of ‘low-caste groups’, cannot be exhaustively explained by the former group’s experience of racism in the United States which appears to be an ad hoc explanation that potentially reduces her students to being insincere or deluded. Something more is required to enable her to treat the testimony of the two groups so differently. The asymmetry must be evident. The presupposed existence of an immoral caste system not only supports the idea of a structure designed for discrimination against only low caste people, but criticism of such claims is treated as an insincere or delusional denial of discrimination. In this ‘dialogue’ too the students of Indian descent (but not the ‘low-caste groups’) are compelled to accept the implicit attribution of the caste system as the explanation for their discriminatory attitudes. They might try to deny the existence of caste as a factor of social life but they cannot deny the truth of the caste system

as explanation. Those who presuppose the existence of the caste system thus also presume the immunity from criticism of its being used as if it is *the* explanation for social interactions among Indians, a problem that finds echoes in other chapters in the present book.

A remarkable feature of the parliamentary discussions on caste discrimination has been a perceived exemption from evidentiary requirements and the willingness to push for parliamentary legislation on the basis of a singular (albeit hypothetical) instance of discrimination. Lord Lester, a leading human rights lawyer and one of the main proponents of the earlier Race Relations Acts, had initially tabled an amendment to introduce 'descent' into the Equality Bill to cover caste discrimination. Responding to the government's plea for research to establish the case for legislation, he noted, 'I simply do not understand why research is needed. The Minister has agreed that, even if there were one case of the kind that I described, that should be unlawful because it is wrong in principle'.¹⁸ Kate Green, the Shadow spokesperson for Equalities, stated, 'if there is even one case of such discrimination, proper action must be taken and there must be proper access to redress'.¹⁹

The official report by the National Institute for Economic and Social Research (NIESR) (Metcalf and Rolfe 2010), commissioned once the caste provision had already been inserted into the Equality Act 2010, showed no clear case for implementing the clause. Even though the authors of the NIESR report argued from the stories they reported that there is a presence of caste discrimination, they nevertheless proposed a research programme to find out just what its extent might be (Metcalf and Rolfe, 2010, 63). However, Lord Avebury and Lord Harries spoke as if the report already endorsed their stand in favour of the caste provision, while the EHRC also recommended the Equality Act be given the widest possible scope on caste on the strength of the NIESR report. Lord

¹⁸ House of Lords Debates, 11 January 2010, col. 344. The idea of using descent to cover caste mirrors the approach taken by the UN Committee on the Elimination of Racial Discrimination in its General Recommendation No. 29, 01/11/2002, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7501&Lang=en and see further Waughray (2009, 191–192).

¹⁹ House of Commons Debates, 23 April 2013, col. 791. To similar effect, see Lord Deben, House of Lords Debates, 22 April 2013, col. 1310.

Dholakia noted that ‘in essence, there is a lack of evidence on caste matters’ and that the NIESR report clearly acknowledged that ‘there is no evidence to suggest the existence of large-scale discrimination in this country based on caste’.²⁰ Thus Lord Dholakia was able to cite the same report in argument against the need for legislation, and criticised the fact that it had been pushed through.

Even the NIESR findings of the ostensible presence of *some* caste discrimination can be questioned. Some of the NIESR report’s examples and case studies draw on disputes involving temples and marriage that would conceivably fall outside the Equality Act given its current scope.²¹ Yet their inclusion by the NIESR researchers achieves the impression of strengthening the case for legislation at least for those who do not take an interest in the detail of the Equality Act. As we will see below, some proponents of the legislation do regard marriages as a possible target. More crucially, while reporting some 30 cases, the authors of the NIESR report recount allegations of caste discrimination but fail to countenance or test alternative explanations for actions that are attributed *only* to caste discrimination. It is thus not clear *how* the stories constitute cases of caste discrimination and even why caste has a bearing on the facts recounted. A similar tendency of presuming discrimination through a description of factual events is evident in press reporting designed to support the caste provision. For example, in the lead up to the introduction of the provision, McManus (2009) wrote a story for the BBC as told by a shopkeeper which recounts an encounter with a Brahmin customer who reportedly asked about the former’s caste and refused to take change from her hand. No account from the customer is provided and no alternative explanation is considered about the alleged facts. One could easily have considered and first rejected alternative explanations for the caste discrimination claim to stand: perhaps the customer did not

²⁰ House of Lords Debates, 22 April 2013, col. 1312. Similarly, on the NIESR report, see Jo Swinson, Equalities Minister, House of Commons Debates, 16 April 2013, col. 220; Alok Sharma MP, House of Commons Debates, 16 April 2013, cols. 233–234.

²¹ This seems to have been understood by Jo Swinson, then Equalities Minister, who noted: ‘The NIESR report contained a range of cases, many of which do not actually fall within the scope of discrimination law, such as prejudice within society outside of the workplace or the sale of goods and services.’ House of Commons Debates, 16 April 2013, col. 220.

consider it worth taking a small amount of change or preferred the change to be used for charity. However, the impression is given to readers that the story is demonstrative of caste discrimination. The case law discussed further below shows a more dramatic instance of such ‘framing’ of human interactions by insinuating discrimination consequent to the caste system. It is more dramatic in that, even where tribunals and courts have an opportunity (and perhaps even an obligation) to test different explanations for alleged behaviour, they appear to rest only upon the caste system as *the* explanation.

When reading the parliamentary debates and other statements there often appears to be a conflation of ‘caste’ and ‘the caste system’. Even where the former is invoked, the latter is presupposed, suggesting that the governing framework is that of an immoral caste system. As we saw, Meena Dhanda describes the present writer as a ‘denier of caste’ and not as a ‘denier of the caste system’. Well before the agitation for legislation in the UK Chetan Bhatt (1997, 249–250), now Director of the Centre for the Study of Human Rights at the London School of Economics, had argued that:

Hindu organizations, including most temples, many of which may be opposed to the extremism of the RSS, are universally structured through caste (*jati*) membership, as well as *gotra* (exogamous clan), *sampradaya* (a movement or loose community based around a spiritual leader), religious sect and regional origin. Every Hindu council is composed mainly of caste defined organizations. These Hindu councils receive significant local state, Labour and Conservative Party patronage, as well as some local authority funds. The persistence of caste prejudice in Hindu communities has barely received attention or opposition from black socialism. It also represents a considerable underdevelopment in secular thinking within multiculturalist and antiracist efforts in Britain.

Thus, well before the agitation on caste took hold in Britain, Bhatt had begun to castigate the Hindu community in Britain for ‘caste prejudice’ considering ‘black socialism’ as the antidote for this illness. On grounds of secular multiculturalism and antiracism, he also opposed the funding of any Hindu organisation which, according to him, are ‘universally

structured through caste'. Bhatt's stance reflects the kind of dilemma that faces an Indian scholar working in the contemporary academic context. He articulates the shame of caste and the necessity for a deracinated future of his own culture, which some kind of secular black socialism should replace. The NIESR report also contains several stories through which the authors suggest that the presence of caste implies the presence or an atmosphere of caste discrimination. In turn, parliamentarians give the impression that the aim of legislating is to eradicate caste in general. The then Opposition spokesperson for Equalities, Kate Green MP, declared in Parliament that, 'Everyone agrees that caste has absolutely no place in our society.'²² Institutions such as *jati* cannot therefore be thought of 'neutrally' but rather obtain the normatively loaded meaning of caste as immoral.

While it might be assumed anti-discrimination law should not be extended to areas such as decisions to marry, a recent statement by Waughray (2014, 378), a legal academic and a promoter of the caste legislation, reveals the kind of slippery slope that arguments for the annihilation of caste might entail:

Ambedkar identified endogamy as the vehicle by which caste is maintained and replicated, and intermarriage as the solvent of caste. Legislation prohibiting discrimination on grounds of caste should contribute to identifying and reducing caste prejudice, including in social and intimate relations, and thereby possibly to the eventual dissolution of caste in this country, in line with the present government's aim.²³

Waughray and her co-authors of the reports written for the EHRC (Dhanda et al. 2014a, 2014b) also emphasise endogamy as a factor of caste. However, as Jalki and Pathan (2015, 43–48) and Fárek (this volume) have shown, accounts of caste as characterised by endogamy are bound to produce anomalies. Thus, even those wishing to see an end to caste may be ill-advised if they consider that targeting of

²² House of Commons Debates, 23 April 2013, col. 791.

²³ Indeed, Ambedkar (2014: 285–286) had identified inter-marriage across caste lines as one of the tools for the annihilation of caste.

endogamy is the correct way of going about it. Nevertheless, the debate around the legislation in the United Kingdom indicates that the promoters of the caste provision have in their sights a far wider attack on the social structures of the Indian communities in the United Kingdom, including marriage-making and caste as such. A scenario such as that Waughray advocates may yet appear a distant reality in the United Kingdom but it is salutary to observe that, in Nepal, the Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2068, section 4(11) already imposes criminal sanctions for preventing an inter-caste marriage.

Caste and the Universalisation of Christianity

One conundrum facing those analysing the legislation on caste in the United Kingdom its link to Christianity and the Christian churches. It has been contended, including by the present writer (Shah 2015, 88–98), that the caste legislation is part of a wider project of proselytism being orchestrated by various church organisations across the world, which see as their immediate goal the targeting of the caste reservations system in India. Christians are not generally afforded access to caste reservations in India (nor as it happens to initiate criminal charges under the caste atrocities legislation).²⁴ Although Christians, as minorities, have other privileges under the Indian legal system (Sen 2010, 110), the lack of general access to caste-based reservations acts as a constraint to proselytism.

In the case of the churches and their representatives, we can understand that their problem with caste is on religious grounds and the link to proselytism is fairly well documented in other ways too. We know through nineteenth-century missionary records from India (see Oddie 1979, 45–74) that caste was viewed as an obstacle to conversion and, additionally, since caste belonging continued after conversion and

²⁴ For a report of a recent case confirming the position, see 'An SC or ST ceases to be so after conversion to other religion: Hyderabad HC', *The New Indian Express*, 23 May 2016.

because it was seen as a repository of heathenism, it was unwanted in the church. The hindrance to conversion that caste apparently poses is cited by a contemporary evangelising organisation, Charstar, which has this to say in a leaflet on converting Hindus:

The caste system is one of the biggest obstacles preventing the gospel from moving freely from person to person in Hindu culture, as members of different castes generally do not interact with one another concerning spiritual and religious matters. (Charstar 2012, 6)

When we examine the debates on caste in the United Kingdom there are spokespersons and organisations who come from explicitly Christian religious backgrounds or speak as holders of a Christian religious office. There is a strong Christian hand in the promotion of the caste provision in legislation and litigation. In a document prepared as a response to the UK government's consultation on whether caste should be included in legislation, a report by the Hindu Forum of Britain (HFB) (2008, 25) noted:

HFB has found that there are strong links between MPs who have interns paid by CARE [Christian Action, Research and Education] and the Dalit lobby in the House of Commons. Several of the MPs who have CARE interns are also the most passionate advocates of Dalit Rights in Parliament and elsewhere. Some of them are also active members of Christian organisations like the Christian Solidarity Worldwide which advocate a strong case for Dalit Rights.

In the United Kingdom, some of the Lords Spiritual who sit in the House of Lords have spoken out in support of the caste provision in the Equality Act. Among them, Lord Harries, a former Anglican Bishop of Oxford, led the charge to include caste in the 2010 Act and to move the 2013 amendment. A debate in November 2014 on caste and poverty in India, during which the issue of the non-implementation of UK caste legislation was raised, also featured avowedly leading Christian members of the House of Lords including Lord Harries (Anglican), Lord Alton (Catholic) and Lord Griffiths (Methodist) (see Shah 2015, 83–98).

Dalit organisations asking for the anti-discrimination legislation to cover caste have an overwhelmingly Christian background and their reports, purporting to document the discrimination suffered by Dalits, are invariably cited by proponents of the legislation. The legislative move in Britain would thus boost an internationally orchestrated campaign within UN organs and the EU to have caste discrimination recognised in some form. Efforts for lobbying in the EU are spearheaded by the Copenhagen-based International Dalit Solidarity Network (IDSN), the funding for which mostly comes from different churches in European countries or from governments of different European countries including Denmark and the Netherlands.²⁵ Such efforts are reinforced when international bodies and those arguing for the UK legislation routinely cite the IDSN (or the DSN-UK in Britain) to support action against caste discrimination. A recent instance of this can be seen in the report submitted to the UN Human Rights Council by the Special Rapporteur on minority issues, Rita Izsák on January 28, 2016.²⁶ The report's focus is 'discrimination based on caste and analogous systems of inherited status'. The report extensively cites the submissions of the IDSN, which is itself in the process of seeking approval for consultative status at the UN's Economic and Social Council (ECOSOC).

Besides the avowedly or obviously Christian organisations there are others who merely take a 'secular' stance against caste discrimination. Thus many secular-minded people in Western countries who do not necessarily subscribe to Christianity might regard caste as an abominable institution destined for the rubbish bin of history. Some members of the British upper house of parliament, in particular those of Indian origin, have tried to convey the immorality of the caste system by appealing to history. Lord Singh of Wimbledon noted:

²⁵ This can be easily gleaned from a perusal of the IDSN's Annual Reports.

²⁶ Report of the Special Rapporteur on minority issues, submitted to the Thirty-first session of the Human Rights Council, 28 January 2016, A/HRC/31/56. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/013/73/PDF/G1601373.pdf?OpenElement>. For more general approbation see Keane 2007, 14n who writes of the IDSN's reports as providing 'ample evidence of the extent of caste-based discrimination in contemporary India'.

Caste has a very precise meaning attached to practices associated with the Hindu faith. It has its origin in the desire of the Aryan conquerors of the subcontinent in pre-Vedic times to establish a hierarchy of importance, with priests at the top followed by warriors, those engaged in commerce and then those engaged in more menial tasks. The conquered indigenous people were considered lower than the lowest caste. Accident of birth alone determined a person's caste. Sadly, thousands of years latter [sic], and despite legislation by the Indian Government, which has been referred to, this hierarchy of importance still lingers on.²⁷

Baroness Shreela Flather offers her insights too:

The caste system was established very early in Hinduism. The Sanskrit for caste is 'varna', which is also the word for colour. The noble Lord mentioned the Aryan conquerors, who were supposed to be lighter skinned. They wanted a division not only on the basis of who would do what but on the basis of colour.²⁸

As we have seen, the National Secular Society actively joined the campaign in favour of the caste clause in the Equality Act and has kept up pressure for it to be implemented (National Secular Society 2013). The Society's list of Honorary Associates, includes Lord Avebury, Baroness Flather and Lord Cashman who are all proponents of the caste legislation. Lord Cashman has also been at the forefront of sponsoring resolutions in the European Parliament to include caste discrimination as a conditionality in the EU's relations with third countries.²⁹

How can we reconcile the combination of such different interest groups and individuals being involved together and basically accepting the same set of 'facts' about the caste system and its importation into the United Kingdom and, furthermore, advocating legislation against

²⁷ House of Lords Debates, 4 March 2013, col. 1304.

²⁸ House of Lords Debates, 4 March 2013, col. 1305.

²⁹ Tories vote against anti-discrimination legislation in Europe, <http://leftfootforward.org/2013/10/tories-vote-against-anti-discrimination-legislation/>, accessed 6 April 2016.

discrimination stemming from that system? After all, as stated on its website, the National Secular Society subscribes to the principle of secularism, one of whose components is 'the strict separation of the state from religious institutions'. It would stretch the limits of credulity to suggest that they are promoting a Christian interest such as a push for proselytism both in India and in the diaspora when at the same time they campaign, for example, against church involvement and religious dogma in the UK's education system.

De Roover (2015, 206–217), De Roover and Claerhout (2015) and De Roover (this volume) have shown how the Western discourse on caste was developed as set of Protestant theological and normative claims about the falsity of Indian religion (Brahmanism or Hinduism). As De Roover (2015, 211) says:

Orientalist discourse absorbed Indian culture into the normative dynamic that propelled both post-Reformation Christendom and liberal secularism. Like the earlier critiques of Catholicism and Judaism, the discourse about Hinduism and caste revolved around their alleged negation of the norms of Christian freedom and equality, either in explicitly theological or in secularized form. Consequently, Hinduism became the embodiment of tyranny and hierarchy.

We also noted above how the trope of the 'Aryan conquerors' of India was raised in support of the caste system by two members of the House of Lords in the United Kingdom. As Marianne Keppens (2014, 2015; this volume) shows, however, seeking 'historical' roots of the caste system plays into the kind of picture that missionaries and Orientalists produced out of their very culture-specific framework of understanding of India that extended to the postulation of an Aryan invasion in India. A society based on religiously sanctioned caste stratification was inimical to core Protestant ideas about equality of status, and the Aryan invasion theory was brought in to explain caste as a religiously ordained racial order. These theologically driven accounts, together with their normative structure, were absorbed into the portraits of India written by Orientalists and Anglicists alike. De Roover (2015, 211–217) goes on to show how

the normative framing of Indian culture and society was also refined and absorbed into social science accounts and Indian political thought, which took as ‘facts’ the originally theological claims about India. In this sense, the view of the caste system as the negation of the norms of Christian freedom and of secular liberal equality is not proven but rather presupposed. The account of the caste system that is now accepted as a social-scientific description of Indian society thus emerged in a framework of secularised Christian theology. This is why both advocates of Christian proselytism and advocates of secularism can accept the account and act on it, regardless of their religious beliefs or philosophical preferences. These and other insights presented in this book should compel the most vigorous proponent of the legislation against caste discrimination to pause and consider the possibility that even the ‘secular’ theorising of the caste system and its correlative postulation of the corruption of Indian culture and society is dependent on Christian *theological* propositions about Indian religion and its caste system.

A Legal Case on Caste Discrimination

While the proponents of the legislation have been making efforts to ensure that caste is included in statute and that the legislation is implemented, hopes among those proponents that a test case would conclusively expose the practice of caste discrimination were earlier pinned on the *Begraj* case. In that case, a practice manager of a law firm in the English city of Coventry alleged that he was discriminated against because of his inter-caste marriage. That case ran out of steam when one of the tribunal members recused herself on grounds of potential bias, which were unrelated to the claim of caste discrimination. However, proponents for legal recognition claimed that that case would have demonstrated caste discrimination if only there had been legislation to recognise it. Although the legal proceedings were discontinued for other reasons, they have several times, inside and outside the UK parliament, represented the collapse of the case as demonstrating the inadequacy of

the law. In so doing, they acted as if they already knew that the facts of the case conclusively demonstrated the existence of caste discrimination even though the case was never concluded (Shah 2015, 70–71). In the eyes of those misrepresenting the significance of the case, the subterfuge may perhaps have been justified because repeatedly invoking the case could at least serve the higher purpose of ensuring that legislation be enacted.

However, success came for the proponents when judgement in the case of *Tirkey v Chandok* (Case no. 3400174/2013) was issued at the Employment Tribunal in Cambridge on 17 September 2015. While Employment Judge Ord delivered the judgement, the decision was unanimous, the two other tribunal members agreeing. That judgement nearly concluded a complicated set of proceedings which are outlined below. The claim mainly turned on the underpayment, below the national minimum wage, for work done by the claimant. The part of the claim alleging caste discrimination was added at a late stage during the proceedings brought by solicitor Victoria Marks of the Anti-Trafficking and Labour Exploitation Unit. Despite an attempt by this writer to elicit how and why caste was introduced into the claim at a later point Victoria Marks has remained silent about it.

It was said on behalf of the claimant that, being a Bihari Adivasi Christian, she was discriminated against on grounds of caste and religion by her employers who were, it was claimed, an upper caste Hindu couple, one of whom had become a practising Buddhist. In fact, both are Buddhist and there is no mention at all of their caste in the judgments. To know whether a person is upper caste, one might consider that it is a condition precedent that one knows to what caste she or he belongs. However, nowhere in the account of the case as discernable from its three separate judgements (besides the ones where findings on damages and costs were made) do we get a proper evaluation of just what role caste played in the matter. It is simply *assumed* throughout that, because the claimant was an Adivasi and the employers were from an upper caste, caste discrimination must have been present. It is also important to recall that not only was the caste issue raised once the litigation had already got underway, but also that in the interview

televised by the BBC after the last judgement, the claimant nowhere mentions tribal or caste status as having played a role in her alleged treatment, which is all the more remarkable given that the case was broadcast as being singularly important for having established the presence of caste discrimination.³⁰ There is therefore a strong suggestion that interlocutors have struggled hard, perhaps even engaged in dissimulation, to present her case as one of *caste* discrimination.

Before going into the details of the latest judgement, it is relevant to recall the earlier stages of the litigation. The first of the Employment Tribunal's judgements in the case was delivered on 24 January 2014. In that initial judgement, in question was the preliminary issue of whether caste discrimination was already covered by the law, notwithstanding that the caste clause of the Equality Act 2010 had not yet been implemented. Employment Judge Sigsworth held that caste was already a part of the Equality Act's provision on 'race' and that a case claiming caste discrimination could therefore be brought under the Act.

Judge Sigsworth went through a set of legal gymnastics to justify his conclusion. He argued that the Equality Act 2010 was in part meant to implement the EU's Race Directive. That Directive referred in its preamble to the UN Convention on the Elimination of Racial Discrimination (ICERD). The UN Committee (CERD) that oversees the application of that convention had already unilaterally determined that it covered caste discrimination under its provision on descent (see Waughray 2009: 190–191). Given that that was so, Judge Sigsworth held that the Equality Act could be read as covering caste. Besides, ethnic origins discrimination against Sikhs had already been recognised by the House of Lords (*Mandla v Dowell Lee* [1983] 2 AC 548), and had since been extended by the UK Supreme Court to encompass descent-based discrimination in a leading case concerning Jews (*R(E) v Governing body of JFS and Another* [2010] 2 AC 728). Consequently, Judge Sigsworth thought, there was no need to wait for the implementation of the Equality Act's clause on caste to bring an action of caste discrimination.

³⁰ The broadcast was made on the television channel BBC2's Victoria Derbyshire Programme, 2 October 2015.

To those familiar with EU law, the stretched legal interpretation by which caste is brought into UK law may sound somewhat unusual, if not alarming or abusive. It is by no means obvious that the EU Directive's framers had caste in mind. No evidence to that effect was examined by Judge Sigsworth and the publicly available documents that led to the Directive's adoption disclose consideration of neither caste nor descent.³¹ Although the UN Committee takes the view that caste is covered by the Convention, this is against the consistent objections of India, which has always said that the descent provision does not extend to caste. In fact, Judge Sigsworth recognised that India did not agree with the CERD's inclusion of caste within the UN Convention's reference to descent but did not consider how to reconcile the two views. Given his contentious interpretation of the Directive, Judge Sigsworth would have been better advised to refer the matter to the Court of Justice of the EU. But he did not consider that point and, from the account we have, neither party to the case seems to have put such a suggestion to him, one of the many indications that the case was badly handled on the part of those representing the respondents, while those representing the claimant encouraged the making of disingenuous claims.

Still, Judge Sigsworth's judgement was appealed by the respondents to the Employment Appeal Tribunal (EAT), where it was decided by the EAT's President, Justice Langstaff.³² The EHRC became an intervener to the case at this stage, submitting its brief and supporting the claimant's contended for interpretation (for details including discussion of declassified EHRC documents, see Shah 2015, 109–112). Justice Langstaff agreed that a claim based on caste could be made if it was subsumed under the notion of ethnicity which, as noted, had been already interpreted as covering descent by prior case law. He argued that his interpretation was in conformity with both EU law and the

³¹ Examining the Commission's proposal for the directive; the opinions of the Committee of Regions; the European Parliament; the Economic and Social Committee and the formal adoption by the Council reveals neither reference to nor consideration of descent or caste. None of the documents, available via the following link: <http://eur-lex.europa.eu/legal-content/en/HIS/?uri=CELEX:32000L0043>, is referred to or considered in the *Tirkey* litigation.

³² *Chandbok & Anor v Tirkey (Race Discrimination)* [2014] UKEAT 0190_14_1912, 19 December 2014.

United Kingdom's international obligations including the ICERD. It is somewhat odd that the judge was concerned to address the question of *conformity* to EU or international law as that was not at issue in the case. Conformity would only be at issue if there was a prospect of *breach* of either legal order. In the *Tirkey* case, the issue was whether one could defend an interpretation *based upon* these legal orders, not whether it would breach them.

Justice Langstaff made a number of critical observations of which the following two are important, not least because they are mentioned in Judge Ord's later judgement of September 2015. Justice Langstaff said that caste did not have to exist as 'a separate strand in the definition of race'. However, he then stated that since "ethnic origins" is a wide and flexible phrase (*Mandla*) and covers questions of descent (*JFS*), at least some of those situations which would fall within an acceptable definition of caste would fall within it'. In so saying, Justice Langstaff appeared to disagree with the argument that caste had to be a clearly separable element of a claim, and asserted that as long as it fell within the wide and flexible notion of 'ethnic origins' and that it could be linked to descent then, according to 'an acceptable definition of caste', a claim could be brought. He then went on to say that 'the fact that there is no single definition of caste, as the parties before me were agreed, does not mean that a situation to which that label can, in one of its manifestations, be attached cannot and does not fall within the scope of "ethnic origins"'. In other words, according to the President of the EAT, the lack of a single definition of caste does not hold back a claim on grounds of caste discrimination as long as *some* definition could be linked to 'ethnic origins'.

It is far from clear what 'an acceptable definition' of caste would be and who would decide its acceptability. Indeed, in a passage from Justice Langstaff's judgement, which Judge Ord's later decision does not quote, Annapurna Waughray, who we already came across as among the proponents of the law on caste discrimination, is quoted as saying: 'There is no agreed sociological or legal definition of caste'. In that context, who would decide what an acceptable definition is and on what grounds would one do that? Presumably it has to be done by some background theory or framework and the currently dominant one tells us that, indeed, India has an inherently discriminatory and immoral

caste system that obliges high caste Indians to discriminate against low caste ones. Sameena Dalwai (2016), one of the few Indian commentators on the *Tirkey* case writing in the journal *Economic and Political Weekly*, presupposes that kind of account of the caste system too and she sees nothing wrong with the view espoused by the judges in the case. The problem is that that idea derives from, and indeed is a secularised version of, assessments made of Indian culture by Protestant missionaries on the basis that Hinduism is a false religion (De Roover, 2015, 206–217; De Roover and Claerhout 2015; De Roover, this volume). While this tells us nothing about India at all, it does have significance for how an implicit association of normative deficit pervades the discussion of caste at every stage of the legal proceedings being discussed. Put differently, the choice of the normative idea of the caste system appears to act as a general premise but any conclusions derived from it cannot hold because the truth of that premise is presupposed, not proven.

The Employment Tribunal's latest decision in the *Tirkey* case (dated September 17, 2015) was reported widely as affirming the presence of caste discrimination not only in the instant case but also inductively within the broader culture of the Indian diaspora. In turn, proponents argue that this justifies the arguments made in favour of the (as yet unimplemented) caste clause of the Equality Act 2010. For instance, Chris Milsom, the claimant's barrister, stated that:

Those who have closely followed the legislative history of the Equality Act will recall that the Government's original rationale for refusing explicit prohibition of caste-based discrimination was that there was no evidence of it taking place in the UK. The damning findings of the Employment Tribunal render that stance untenable. Where such discrimination exists its victims must be protected.

Milsom's remarks were reported widely in coverage of the case including by the BBC, *The Guardian*, the National Secular Society and *Christian Today*.³³ Chris Milsom's understanding is not borne out by a closer

³³ 'Woman awarded £184k in 'first caste discrimination' case', BBC News, 22 September 2015, <http://www.bbc.co.uk/news/uk-34330986>; 'Woman awarded £184,000 in UK's first caste

reading of the judgement which would have shown that the presence of caste discrimination is not demonstrated; nor are the findings with respect to caste as ‘damning’ as Milsom wanted his audience to believe. Lord Anthony Lester QC, who has championed the caste legislation in parliament has said that there is ‘no binding and authoritative legal precedent’, but even that statement is given in the context of the argument that the legislation on caste must be implemented, a line of argument that other pro-legislation campaigners have also taken (Waughray and Dhanda 2016).³⁴

Judge Ord (in effect the Tribunal) makes a large number of assumptions as to the presence of caste discrimination. We are told that, as far as the claimant was concerned, ‘the expectation for her and others would be to become servants and domestic workers in wealthier parts of India. The Claimant’s family has always carried out domestic work of one kind or another’. Was it her family’s expectation or from the rest of society? Was such an expectation based on caste or the caste system? We are not told about any of this, although the judgement suggests that was a factor why she was sought by the employers and underpaid. Then we have this observation in the judgement which is also cited by the National Secular Society:

The Claimant’s family are ‘Adivasi’ people who are dark skinned and poor. They can be either Christian or Hindu and are recognised by the sari

discrimination case’, *The Guardian*, 22 September 2015, <http://www.theguardian.com/law/2015/sep/22/woman-awarded-184000-in-uks-first-caste-discrimination-case>; ‘Calls for Government to outlaw caste discrimination after tribunal rules in favour of victim kept in “domestic servitude”’, National secular Society, 23 September 2015, <http://www.secularism.org.uk/news/2015/09/calls-for-government-to-outlaw-caste-discrimination-after-tribunal-rules-in-favour-of-victim-kept-in-domestic-servitude>; ‘Christian held as domestic slave by Hindu employers wins payout for religious discrimination’, *Christian Today*, 23 September 2015, <http://www.christiantoday.com/article/christian.held.as.domestic.slave.by.hindu.employers.wins.payout.for.religious.discrimination/65589.htm?print=1>.

³⁴ Lord Lester’s description may be technically correct if he was referring to the judgment of the Employment Tribunal, which do not constitute precedents. However, during the most recent parliamentary discussion on the state of the law on caste, he seems to imply that even the EAT’s decisions are not precedents. As Baroness Williams of Trafford noted on behalf of the government, the EAT’s judgement accepts that caste claims may fall within ethnicity, and the EAT’s judgements do constitute precedents. House of Lords Debates, 11 July 2016, cols. 82–95. Being an accomplished lawyer and parliamentarian Lord Lester may however understand (though not explicitly acknowledge) that the factual basis of the *Tirkey* case is unsound as described here.

they wear at festivals or on special occasions (a white sari with a red border). In the 'caste pyramid' the Adivasi are the lowest class.

Judge Ord thus states that the Adivasi people can be recognised by the colour of the sari they wear. He adds that they constitute the bottom rung in the caste pyramid. And of course that they are dark skinned. While Dalwai too notices the use of these characteristics and mentions them in passing ('none of these are obvious markers of caste') somehow she is not critical of their use in a UK courtroom to reinforce an account of the caste system and its attendant oppression. Is there a caste pyramid in India? Are Adivasis really to be found at its bottom rung? What no one conducting the case seems to have realised is that in India Adivasis (the term being a neologism) are considered to be tribal people and outside of the so called Hindu caste system. Dalwai again notices this anomaly: that tribals are 'always' considered outside of the village caste order, but sees no problem in the claimant being treated as if she was subject to *caste* discrimination. Indian law assigns a separate category of 'Scheduled Tribes' besides the category reserved for 'Scheduled Castes'. Some attention to the distinction made by Indian law would have been enough for doubt to fall on the claim being founded on caste discrimination but no such attempt was made at any stage in the litigation.³⁵

Many other questions arise from the claims Judge Ord accepts. Do other, non-tribal women in India not wear white saris with a red border? Would one recognise an Adivasi if she wore such a sari? Would it be by the darkness of her skin? Are there no dark skinned 'upper caste' people in India? No corroboration is cited for any of the claims made in the quoted paragraph. No questions are asked about these assertions which are also found elsewhere in the judgement. For example, the judgment also says that 'A low caste, servile, Indian person who could not speak English and who the Respondents would consider expected no more than that which was in fact was on offer was required to meet their

³⁵ Some such attempts are being made subsequently but in such a way as to finesse the problem away (see Waughray and Dhanda 2016).

needs.’ This statement too suggests that caste was at least one factor in the claimant’s recruitment and her subsequent low wage. But nowhere is it established or discussed that the respondents had sought out the claimant because of her caste. It is simply implied, together with the associated immorality, as being part of the factual background by Judge Ord and the tribunal panel. The subsequent commentary supporting the outcome of the case fails to scrutinise this treatment of the facts during the litigation.

The judgement by Justice Langstaff in the EAT had effectively instructed the Employment Tribunal hearing the full case to carry out the following exercise to establish the presence of caste discrimination:

an allegation that a Claimant was treated disadvantageously because of her having a status which was heavily related to an inherited position in society *cannot be ruled out as being established on the evidence*. The Tribunal hearing such a claim will need to *establish what it accepts of the treatment alleged and, in relation to the acts which it accepts, why the Respondent did them in respect of the Claimant*. If the reason or reasons established factually that the Respondent *treated the Claimant as they did for reasons which more than minimally included their view of her status or origins, and if that status, or that view is bound up with her ethnic origins* as understood in domestic case law, the Claimant will succeed in a claim for discrimination. (italics added)

This instruction issued by the EAT effectively laid down a requirement to evaluate whether the facts showed that the respondents acted the way they did on grounds of caste and how it was bound up with the claimant’s ethnic origins. Two observations in Judge Ord’s judgement are critical in helping to understand why he did not follow this instruction – in other words, why he does not explain anywhere in his judgement how caste is bound up with any of the facts as alleged by the claimant. These two observations provide us with additional and, in this writer’s view, conclusive indications that the case establishes *nothing* about caste or caste discrimination.

First, at para. 10 of the judgement we learn that the evidence on which all the claims about the caste system, the claimant’s caste status,

her dress, skin colour and their link to the claimant's recruitment and treatment was not challenged at all: 'This evidence from the Claimant was entirely unchallenged and we accept it'. This statement indicates that the lawyers acting for the respondents did not bother to contest any of the allegations to the effect that the respondents acted as they did on grounds of caste. Instead, those lawyers merely acquiesced in them. On the basis of the lack of challenge to those allegations we find barrister Chris Milsom, the National Secular Society, and the BBC, *The Guardian*, and other outlets announcing the 'damning' presence of caste discrimination in the case. The respondents' solicitors appear to have some responsibility here. At the latest hearing the solicitor, from Peninsula Business Services Limited, did not bother to contest the allegations made on behalf of the respondent; and at the previous stage, in handling the appeal to the EAT back in 2014, they failed to take up an offer for expert evidence on the caste part of the claim made by this writer that would have rebutted the basis of those allegations.

Judge Ord makes a second observation that reinforces the view that the caste claim was not dealt with by any proper assessment of the evidence. He says at para. 200 of the judgement: 'Under Section 136 of the Equality 2010 if there are facts from which a Court could decide *in the absence of any other explanation* that a person has contravened the provisions of the act, the court must hold that the contravention has occurred unless the alleged discriminator shows that they did not contravene the provision' (italics added). These words beg the question whether the *only explanation* was that the claimant was treated in the manner she complained of because of caste based discrimination. In other words, was there really an 'absence of any other explanation' for the facts alleged on caste? Elsewhere, this writer has called attention to the asymmetrical effect of section 136 on defendants in caste related cases because decisions would be made by operation of prevailing stereotypes being peddled about the Indian caste system (Shah 2015, 81n). The way this case was handled bears about my earlier warning: Indians in the UK legal system facing charges of caste discrimination will be treated as if they are presumptive discriminators. Were Indian academics like Dalwai to be called in to provide expert evidence it will not rescue them as she too regards Indian upper castes in the same way.

In this case one might have said, for instance, that many women in India wear a white sari with a red border; it does not necessarily indicate anything about caste, and may not have done so to the respondents, who were in any case not from Bihar. One could even have said that the reason for recruiting the claimant may have been because she was servile but that this has nothing to do with her being an Adivasi, which is in any event not exactly a 'caste' status under Indian law. After all, it is possible to come across many non-servile tribals in different, even high status occupational positions in India. One might have even asked by comparison why Europeans desire Filipinos as house servants or why the National Health Service recruits many nurses from Zimbabwe. Members of both groups may be exposed to abuse in their respective employment contexts but would their recruitment based on nationality necessarily lend legitimacy to claims of racial discrimination? Rather than going through such alternative hypotheses, the Employment Tribunal evidently assumes that there is *no other explanation* possible for the facts as alleged, and decides on the basis of stereotypes of the caste system in India as suggested by lawyers representing the claimant, stereotypes which the Tribunal panel may well have shared, and were willing at any rate to accept.

Besides the evident subterfuge involved in establishing that caste discrimination is against British law, we can make a number of conclusions from the way in which the case law has developed. The way the cases have been handled shows that British tribunals and courts share the general assumption embedded in Western culture that India has a corrupt, oppressive and immoral caste system. Indian academics, Dalwai not being exceptional in this regard, would tend to reinforce such assumptions. In much the same way as the Equality Act's provision on caste was incorporated and justified, no evidence need be proffered to substantiate the claim of the existence of the caste system nor its transplantation to the Indian diaspora. It can simply be assumed. As barrister Chris Milsom is reported as claiming before the original tribunal hearing the *Tirkey* case, 'The Vedic caste system is a South Asian concept which, in so far as it has spread beyond the region, has been transplanted by the diaspora community.' Many such outrageous claims can be made about caste as if they are plausible, and plausibility need

only be measured according to the prevalent stereotypes to make out that a set of facts constitutes caste discrimination. As has happened in the *Tirkey* case, the mere presence of two parties of different castes (notwithstanding that the respondents' caste was not even inquired into and that the claimant said she was a 'tribal') seems enough to substantiate a claim that caste discrimination must have been present. And presumptions can be called upon to do the rest; to overlook the fact that no link was demonstrable between caste and the alleged treatment of the claimant.

Although we do not know what caste is and nobody can tell us how to define it in a theoretically defensible sense, we all 'know' that there is a caste system. To claim that there isn't or that laws should not be made on the basis of such assumptions, is merely an indication that one is a 'denier of caste', as Meena Dhanda calls the present writer (a claim that Dalwai repeats), or that one is speaking for the interests of persons who will 'almost inevitably include high caste Hindus' as Keith Porteous Wood of the National Secular Society in the UK superciliously proclaims. Dalwai's article demonstrates the tendency all too well in the way her account links caste to a multitude of different phenomena. Thus she refers to the 'caste system', 'caste oppression', 'caste relations', 'caste practices', 'caste pyramid', 'caste discourse', 'caste positionality', 'caste economics', 'caste hierarchy', 'caste situation', 'caste lens', 'caste norms', 'caste subjectivity', 'caste privilege', 'caste violence', and 'caste discrimination'. For Dalwai, caste is a sign of the moral degeneracy of the upper castes in India and now also the Indian diaspora in the West to whose shores they have imported their caste norms, alongside their *dal* and *masala*. According to her we should understand caste as a 'function of social malpractice and a cultural ethos of discrimination'. Given her generous use of caste as a qualifier, we could be forgiven for thinking that it characterises every component of Indian life, and so could just as easily be used synonymously with 'Indian'. In other words, caste is nothing but a morally bad thing of which Indians should be ashamed and they ought to be subjected to legal force whenever their attitudes betray its influence. The danger in the way Dalwai talks about caste though is that it may be found to lurk everywhere and in everything Indians might do, so inherent is it to their lives.

As the account provided in this chapter testifies, Dalwai's thinking is in line with, if not slightly more robust in the choice of language than, those of our academic colleagues in the United Kingdom, who also support the Equality Act and the case law against caste discrimination. All presuppose the existence of the Indian caste system as so thoroughly immoral that it should ideally be eradicated, by legal means if needed. Whether or not the *Tirkey* case will be used as a precedent or as a sign of things to come, we have seen how it is already being used to argue for the need to have the Equality Act's clause on caste to be implemented. If the legal lessons that Sameena Dalwai has learnt from the caste litigation on UK shores is representative of how Indian academics approach the problems the legislation and the *Tirkey* case represent a solution to, it does not appear as though Indian scholars will be able to shed greater light on what caste is or how laws merely end up layering further confusions upon an already confused idea of caste. It is only as a result of new research presented in this book that we can say that the idea of the caste system was a part of Protestant theological claims that wanted to see Hinduism as a false religion ruled by a devious priesthood, and upon which claims about the 'facts' of the caste system in the social sciences depend.

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5

Were *Shramana* and *Bhakti* Movements Against the Caste System?

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Over the last two centuries, several links have been suggested between early ascetic traditions and the *bhakti* movements of India. Buddhism purportedly gave India its first idea of a benevolent supernatural being, looking down in love and compassion at all humans, ready to help them on the path of liberation. This concept of *Bodhisattva* is supposed to have inspired the later piety of *bhakti* (Basham 2004, 332). Even more questionable ideas were formulated in attempts to connect Buddhism and Jainism with “the rise of a new theistic system”, such as “the needful personal element in the shape of their founders” (Bhandarkar 1913, 2–3). From these and other speculations, one idea became very influential among the Indian and Western scholars alike. The ascetics of ancient India have been depicted as egalitarian and anti-caste and the later *bhakti* traditions have been projected as their heirs, who carried on a “millennial-long” conflict with Brahmanism. For a recent book focusing on this

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theme, see, for example, *Buddhism in India: Challenging Brahmanism and Caste* (Omvedt 2003, 21, 134, 169, 186–187). But, we find this idea as part of a common description of Indian history in works on different topics, ranging from historical studies (Bayly 2001, 46) to Indology (Dimock 1989, 28–29). The idea that egalitarian teaching connects different *śramanas* and *bhaktas* was conceived in the nineteenth century at the latest, formulated by the European Orientalists. In his *Religious Thought and Life in India*, while discussing general characteristics of *bhakti* traditions, M. Monier-Williams claimed:

In fact the leaders of religious thought in India were all disciples in the school of the great Buddha, to the extent, at least, of imitating his wisdom by preaching religious equality and fraternity. They saw that their popularity as reformers depended on their attracting adherents from all ranks, high and low. Hence, every great religious leader proclaimed the complete social equality of all who enrolled themselves under his leadership. (Monier-Williams 1883, 64)

In this way, ascetic traditions called *śramanas* and different schools of *bhakti* were linked. As a result, many Indian centuries have been portrayed as an on-going struggle of lower castes against brahmanical rule, or “despotism”, which was soon translated into the “tyranny of caste”. In this chapter, I will refer to this idea as the “uniting anti-caste hypothesis”, because it unites many different Indian traditions across several millennia into one large stream with a common goal.

Strangely enough, authorities on whose work today’s proponents of the uniting anti-caste hypothesis rely have been all but unambiguous in presenting their arguments and opinions in favour of this hypothesis. Buddha is described as a reformer who opposed *brahmanas* and the system of castes. Yet, the alleged revolutionary nature of the early Buddhist *dharma* has been contested since the pioneering works of Western scholars on Buddhism, such as Horace H. Wilson or T. W. Rhys Davids. For many scholars and social activists today, different *bhakti* traditions represent egalitarian movements in Indian history. How would these writers explain B. R. Ambedkar’s clear statement that different leaders of *bhakti* traditions never intended to change the

caste system (Ambedkar 2014, 336–337)? And there are other problems or anomalies with the arguments and evidence that should support the “anti-caste” agenda of the early ascetic and later *bhakti* traditions. They will be discussed in the first part of this chapter.

In the next section, I will consider arguments and evidence for an alternative explanation. It also links many different traditions of India, but its arguments support a reverse of the uniting anti-caste hypothesis. Put briefly, this hypothesis claims that both ascetic traditions and *bhakti* movements have considered castes, or better to say *varna-dharma*, to be the best form of society. Firstly, I will look at the arguments about the Buddhist ideas concerning caste. As a second step, I will present arguments and evidence concerning the stance towards *brahmanas* and caste from the teaching of the Chaitanya Vaishnava tradition. From the records of these traditions, it can be much more plausibly argued for the case that although *brahmanas* were sometimes criticized by ascetic and *bhakti* teachers, this criticism was not directed against *varna-dharma* as such, nor against the existence of *jatis* (for analyses of the Lingayat tradition that showed the same kind of problems with the dominant explanation, see Balagangadhara 2012, 2013; Hegde and Shanmukha 2015; and Jalki 2015). If the conclusion is that these Indian traditions upheld the system of *varnas* and *jatis*, inevitably, several questions rise. How was the uniting anti-caste hypothesis created? What were the arguments and background ideas that made it an intelligible explanation?

Before dealing with these questions, I will look at the fundamental assumptions of the uniting anti-caste hypothesis. While discussing caste, it seems that it is equivalent to Indian concepts of *varna*, *jati* or *biradari*, and that we understand the realities these domestic concepts describe rather well. In fact, we are far from having satisfactory explanations, or theories, of caste as a category and as a social system. It will be useful to summarize some of the problems in our understanding in order to identify several connected problems of the general discussion about caste and its properties.

Among the properties of caste, endogamy is the most common characteristic ascribed to caste, but then again, piling evidence and different scholarly analyses show that it is hardly a defensible idea. In order to explain how and why endogamy became so central in the dominant understanding of the caste system, I trace the roots of this idea. It will lead us to the way the Christians

dealt with Jews and Muslims as religious rivals. More specifically, I will argue that we should consider the original European meaning of “caste” in its theological and historical context. When the Portuguese encountered *brahmanas* and other groups in India, they assumed that these groups are divided along religious lines, analogous to divisions of people in their own culture. We will see how the concept of purity of blood emerged in kingdoms of Portugal and Spain since the fifteenth century. This was the background that created a very specific religious understanding and practices of endogamy. My tentative suggestion is that, later on, this understanding became an almost natural explanation for the puzzling realities of Indian society within the framework of emerging Oriental studies.

From this particular line of ideas, we will proceed to several important arguments of the promising research programme of the comparative science of cultures, conceived by S. N. Balagangadhara (2005, 2012). The Indo-Belgian researcher pointed to the continuous role of Christian theological thinking in Oriental studies and social sciences. Balagangadhara examines not just this or that particular theological concept, which influences our discussions till today. More importantly, he disclosed the whole framework of background ideas and assumptions, rooted in centuries of Christian thinking about the “heathen religions” that continue to shape and constrain our understanding of other cultures. I will argue that the intelligibility of the uniting anti-caste hypothesis depends on the ideas created within the Western Christian theological understanding. Yet, this seemingly negative conclusion opens the door to a new kind of research, which will ask different questions about the concepts of *varna*, *jati*, and *biradari*, and the realities that these concepts refer to.

Anomalies of the Uniting Anti-caste Hypothesis

Let us start with the alleged anti-caste agenda of early Buddhism. While reading standard textbooks on religion in India, we learn that at certain stage of its development, *brahmanas* created more and more complicated

rituals and brought them into all spheres of life. But this “empty ritualism” did not satisfy people in general and hence opposition rose to brahmanical rule in matters of spiritual and social. Buddha was portrayed as Martin Luther of India, who fought the corrupted priesthood and preached the equality of men. Certain passages from Buddha’s discourses have been interpreted as a proof that he rejected the authority of the Vedas and *brahmanas*. The logical conclusion of this description is that Buddha rebelled against the caste system.

What looks like a consensus of scholars in our textbooks is in fact a very problematic account, when confronted with the ideas presented by different researchers since the first half of the nineteenth century till today. For example, Horace H. Wilson, a pioneer Orientalist in several areas of research, agreed with the hypothesis that the early Buddhists wanted to “throw off the authority of the Brahmanas as the sole teachers of religious faith” (Wilson 1856, 248). But this point of controversy with the *brahmanas*, as well as “disagreement about the political institution of a religious society which should comprise all classes, all castes, women as well as men” (ibid.), did not mean for Wilson that Buddhists rejected *brahmanas* as such, nor that they fought against the caste system:

[T]he Buddhists did not abolish caste, they acknowledged it fully as a social institution, but they maintained that it was merged in the religious character, and that all those who adopted a religious life were thereby emancipated from its restrictions, and were of one community. (ibid.)

What Wilson meant by this statement is quite clear: The Buddhists who accepted an ascetic way of life (*bhikkhu*, *bhikkhuni*) exited from society and, in this sense, they created a community outside of it. This was rather typical for several ascetic traditions of those times, called *shramanas*. Let us remind ourselves that *shramanas* were travelling ascetics, who spent most of the year walking around the country and who could settle in one place usually only for the rainy period. They begged for food, could not engage in normal occupations and had to maintain celibacy. The proper observance of these and other rules is described as adoption of “a religious life” by Wilson, in accordance with the common Christian understanding of

his times. Yet, this separation of ascetics from the general society does not imply that they were against the existing social system.

The ideas of T. W. Rhys Davids are less clear than Wilson's on this matter. On the one hand, Rhys Davids believed that at certain point in history, *brahmanas* as priests gained "the absolute supremacy", which he considered to be "the keystone of the arch of the peculiarly Indian caste organization" (Rhys Davids 1899, 101). On the other hand, his description of the Indian society at the time of Buddha gives a sense of very vague and flexible divisions between the four *varnas*. Among the nobility, *kshatriyas* were in reality above the *brahmanas* and the absolute supremacy of the *brahmanas* was not ready yet. Therefore, Rhys Davids came to a logical conclusion: "*The caste system, in any proper or exact use of the term, did not exist*" (ibid.).

This claim has very interesting implication. If it is true, how could Buddha oppose the caste system and the supremacy of *brahmanas*, if they were not present in his times? With both influential scholars we encounter explanations that do not support the anti-caste character of early Buddhism. One argument says that Buddha endorsed the caste system. Another denies the existence of the caste system at the time when Buddhism arose and, therefore, it is all but clear what Buddha should have opposed. Indeed, some respected authors saw "little evidence of direct antagonism between Buddhists and brahmins at this early period" (Basham 2004, 264). But even those who accepted claims about brahmanical supremacy that was already in place during the times of Buddha have argued that Buddha's criticism of *brahmanas* was not aimed at social reform. To this point, thoughts from Paul Williams and Anthony Tribe are worthy of a longer quote (emphasis mine):

The Buddha was critical of the intrinsic supremacy of the brahmins, and with it the ideology of *varna*. *But it would be misleading from this to infer, as some modern writers do, that the Buddha was 'anti-caste'*. First, a criticism of the *varna* system is not in itself a comment on *jati*, caste, although it could be transposed to the ideology that nevertheless underlies caste. For his part the Buddha spoke of the true brahmin as one who had spiritual insight and behaves accordingly (see the famous Dhammapada, Ch. 26). In this sense the Buddha affirmed a hierarchy not of birth but of spiritual

maturity. It is not obvious that the Buddha would have any comment to make about a brahmin who is also spiritually mature (understood in Buddha's sense). The Buddha was not offering social reform. And this is what one would expect. The Buddha was himself a dropout, a renouncer of society. (Williams and Tribe 2000, 245–246)

If Buddha was not offering social reform, what did he want to achieve by his criticism of *brahmanas*? Williams and Tribe gave two reasons why this criticism was not aimed at the caste system. First of all, they pointed at the difference between *varna* and *jati*. This is a large topic that needs longer elaboration, which I will only start to sketch in the last part of this chapter. Another point Williams and Tribe raise is Buddha's affirmation of the "true brahmins". Again, this idea needs more space for discussion, and I will come back to it in the following section.

Just as the rise of Buddhists (and Jains), later *bhakti* traditions have been typically portrayed as anti-caste, egalitarian movements during many decades of modern scholarship. In this chapter, I examine *Vishnu-bhakti* and especially the Chaitanya Vaishnavas, as an example of alleged social reformation in India. Thus we read in one of the first books of modern scholarship on Chaitanya Vaishnavas, written by D. Ch. Sen after World War I:

Those that would say that he was lacking in poise should be reminded of his many-sided intellectual activities and his heroic attitude in the reorganisation of the Hindu society. He selected men from amongst his followers to work in different spheres of life for the propagation of faith and social reformation Chaitanya had found the caste-system eating into the vitals of our social fabric, and he and his followers were determined to root out this evil from the land. For, the moment you say that you love God, all human beings will be your brethren; there will be no Brahmin, no Sudra. (Sen 1922, 278–279)

Yet, many scholars who held this opinion have also repeated that this *bhakti* tradition hardly changed the caste divisions in the larger Indian society, and even among the Chaitanya Vaishnavas themselves.

Recognition of this strange situation goes back to the Orientalists of the nineteenth century. Horace H. Wilson stated:

Another singular and important consequence results from these premises, for as all men are alike capable of feeling the sentiments of faith and devotion, it follows, that all castes become by such sentiments equally pure. This conclusion indeed is always admitted, and often stoutly maintained in theory, although it may be doubted whether it has ever been acted upon, except by CHAITANYA himself and his immediate disciples, at a period when it was their policy to multiply proselytes. (Wilson 1861, 161–2)

Similarly, M. Monier-Williams was convinced that “devotion to Vishnu supersedes all distinctions of caste” (Monier-Williams 1883, 116). To him, it was the first of the main characteristics *Vishnu-bhakti* exhibits, others being doctrinal opposition to the non-dualistic teaching of Shankara, tenderness towards animal life, worship of existing religious teachers, etc. Nevertheless, *brahmanas* in fact kept their position even within the allegedly egalitarian Vaishnava traditions. “As a matter of fact, however, it is not to be supposed that a Vaishnava Brahman ever really gives up his claim to superiority over the inferior classes” (ibid.). Someway or other, lofty ideals of universal religious equality and fraternity did not find their way into the real life of devout Vaishnavas.

Moreover, the anti-caste hypothesis has another serious problem. Despite the fact that *bhakti* gurus and their followers were seen as critics of the caste system, proponents of this idea had to admit very strange historical evidence. Apparently, “the *bhakti* spirit of intercaste communal devotion does not seem to have affected the local functioning ritual-occupational caste systems. . . . There is little direct criticism of the social order. In fact, people converting to *bhakti* sects in past centuries have formed new castes (Dumont 1970: 188), so that sectarian castes constitute a minor number of castes in the local caste systems” (Kolenda 1985, 115–116).

Let us appreciate the problem. On the one hand, *bhakti* traditions are understood as anti-brahmanical and anti-caste movements, and authors propagating this view do not hesitate to describe them with words like

“reform”, “revolution”, or “fight against oppression”. On the other hand, often the same authors are telling us that the *bhakti* traditions held *brahmanas* in high esteem and even created new castes of their own. How could proponents of the uniting anti-caste hypothesis reconcile their claims to this empirical evidence?

The prevailing answers point towards the *bhakti* teaching about the possibility to access the *devata* of your choice for every person, irrespective of his social situation. Therefore, Western Orientalists and somewhat later also Indian scholars started to write about a sense of equality in the sphere of devotional teaching and practices. Wilhelm Halbfass expressed this idea as follows:

A number of soteriological and theological attempts to re-define the concept of *dharma* and to loosen its close ties to the caste system may be found in the theistic movements, especially in the definition of the love of God (*bhakti*) as the “highest *dharma*” (*paramo dharmah*) that was advanced by the Chaitanya school and other movements affiliated with the Bhagavata-purana. (Halbfass 1988, 330–331)

While one might be willing to grant that some *bhakti* teaching propagated a sense of spiritual equality among people, it is not by any means a proof for the claim that *bhakti* teachers wanted to change the social system and implement social equality. First of all, the sense of spiritual equality itself needs much more of further research. Only after we will have a reasonable theory about this aspect of *bhakti* teaching, we can take the next step and start to consider its connection to the ideas and practices of social equality. At the moment, we can only say that spiritual equality and social equality are two very different notions of equality and the link between them is all but clear. Yet, precisely this questionable connection is often sufficient for the statements about anti-caste agenda of the *bhakti* traditions (apart from the already quoted works, see e.g. Dhanda 2015, 38).

Why create such a connection between different ideas and practices where possibly none existed? Why insist on the idea of social equality and reform being present in the *bhakti* traditions without the convincing

evidence for it? B. R. Ambedkar, whose ideas are often referred to by the proponents of the anti-caste hypothesis, formulated this problem clearly:

The saints have never, according to my study, carried on a campaign against caste and untouchability. They were not concerned with the struggle between men. They were concerned with the relation between man and god. They did not preach that all men were equal. They preached that all men were equal in the eyes of god – a very different and a very innocuous proposition, which nobody can find difficult to preach or dangerous to believe in. (Ambedkar 2014, 337)

A thought experiment will help us to appreciate Ambedkar's point. Let us take the example of Chaitanya Vaishnavas again. Why did Chaitanya and his disciples not attempt to establish an egalitarian community, when Bengal, their main base, had been ruled by Muslim dynasties in the sixteenth century? We know that in the town of Navadvip, Chaitanya had to face the interrogation of a local *kazi* because of the criticism raised by some *smarta-brahmanas*, and that he succeeded in defending his new group. Nevertheless, Chaitanya did not give up brahmanical ideas and practices. During the successful spread of the movement in the second half of the same century, we have evidence of the Great Mughal emperor Akbar's support to different religious communities, including the famous followers of Chaitanya, the six Gosvamis of Vrndavan. Would these leading thinkers wish to have established an egalitarian community, this was an ideal time. Apparently, the six Gosvamis were not interested in such a social experiment and they maintained high brahmanical standards among their householder followers. Some of these direct disciples started new *jati* groups. We must come to a clear conclusion: Chaitanya Vaishnavas never tried to create a new society without divisions of *varnas* and *jatis*. The next section will take up the attitude of this *bhakti* tradition towards the *varna* system in general and the *brahmanas* in particular.

The uniting anti-caste hypothesis does not explain these contradictions at all. Instead of digging deeper, both into the theoretical foundations of problematic explanation and into available historical evidence, scholars just repeat the story about reform movements that somehow did

not succeed (see e.g. Dimock 1989; Basham 2004, 152; Jordens 1975, 273; Bayly 2001, 46–48). This kind of affirmative repetition over generations of scholars made the uniting anti-caste hypothesis a given. As a consequence, it is easier for some writers to resort to propagandizing and rhetorical hand-waving to make their case plausible. The contradictions discussed so far are ignored and the relevant historical evidence is distorted. One example for all (emphasis mine):

The Dalit movement in India has roots in the reformative Bhakti Movement. The Bhakti Movement thrived in pockets across the country over several centuries. The Bhakti Movement was not an organized movement but a conglomeration of the individual efforts of various saints and social reformers who pursued their ideas through their writings, folk culture and belief in one divine power. *The Bhakti Movement was anti-caste, anti-elite, pro-women, pro-poor, anti-Sanskrit, and affirmed that genuine love of God was sufficient to find solutions to social problems.* The movement attracted large numbers of the lower castes and poor, including women (Srinivas 1996). Though, the Bhakti Movement has not spoken exclusively for the Dalits or proposed any agenda for radical changes in the social structure of Hindu society, it has established a pattern of questioning the Hindu social order which later provided a platform for an organised Dalit Movement with a strong voice for social reforms. (Singh 2010, 1)

Let us note fundamental problems of this account. *Bhakti* traditions are represented as one single movement that is characterized by slogans: “anti-caste, anti-elite, pro-women, pro-poor”. What did the author mean exactly when using these characteristics? How could any movement be “anti-caste” and, at the same time, not to propose “any agenda for radical changes in the social structure of Hindu society”? Which *bhakti* tradition, which particular teacher ever discussed “genuine love of God” as a way to solve social problems? Not to mention that the use of words “genuine love of God” needs a profound clarification about their precise meaning. The author of the paper shows complete ignorance when he says that *bhakti* movements were “anti-Sanskrit”. In order to prove this claim, he should provide us with very convincing arguments that will exclude *sampradayas* of Ramanuja, Chaitanya, Vallabha and many other

Vaishnava groups, as well as many Shaivas and others from the category of *bhakti* movements. All these traditions have produced a vast body of Sanskrit compositions (for Vaishnavas of Bengal, see De 1960, 65–135).

It is clear by now, I hope, that the uniting anti-caste hypothesis exhibits basic contradictions and that its proponents have not solved them in a satisfactory way. In fact, as this hypothesis has been passed on over several generations of scholars, the main problems became integrated as parts of the accepted description and as such, they provoke less and less curiosity. The claim about traditions that never attempted a reform of the caste system, but are characterized as anti-caste movements nevertheless, is the most startling example.

Shramanas and bhaktas Supported varna-dharma

I now turn to a very different set of arguments that analyse the meaning and context of Buddha's comments about *brahmanas* and *varna*. S. N. Balagangadhara (2015) formulated arguments concerning the alleged anti-caste agenda of ancient ascetic movements, called *shramanas*. He shows that evidence of the early Buddhist teaching does not reveal its alleged anti-caste ideas and intentions, just the opposite. Buddhist ascetics considered *varna* divisions to be *dharmic*, that is appropriate, distinction of groups in society. In fact, theirs was a question: Who is a true *brahmana*? Buddha and the following generations in his line criticized some *brahmanas*, because in their view, these were not true *brahmanas*. But Buddhists rejected neither brahminhood nor the division of society into four *varnas* as such. In the second part of this section, I will show that we can plausibly argue for the same ideas and concerns being prevalent in later *bhakti* traditions.

If Buddhists and Jains rejected the caste system and revolted against *brahmanas*, we should find some evidence of it, suggested Balagangadhara. What we find in the respected texts of these traditions instead are discussions of the theme: Who is a true *brahmana*? That is, what qualities should a true *brahmana* have, which of them is more important than others and what acts disqualify one from being a true *brahmana*. Balagangadhara pointed especially to Buddha's discourse

with the *brahmana* Sonadanda, and the section on *brahmanas* in *Dhammapada* (Balagangadhara 2005, 207–210). There is more evidence for this concern of early Buddhist teaching, see *Kassapa Sihanada-sutta* or *Sutta-nipata* 650, and the same kind of discussion was continued in later Buddhist texts, such as *Vajra-suci*. I will return to this particular text in the next part of this chapter. Similar concerns are documented in the tradition of Jains, for example *Uttaradhyayana-sutra* contains a list of qualities that makes somebody into a true *brahmana* (Balagangadhara 2005, 216).

Another important point is in the famous story of *Aganna-sutta* where Buddha explains the emergence of four *varnas*: They emerged as groups with specific tasks according to *dharma*. Thus, *kshatriyas* were originally chosen by people in order to protect them against stealing and other immoral acts. Later on, some people decided to give up harmful and immoral acts, and this is how *brahmanas* came to being. How could something that Buddha was purported to reject, emerge and function according to *dharma* in his view? This is hardly evidence for the Buddhist rejection of the caste system (Balagangadhara 2005, 212–216).

Should we like to save the interpretation of these movements as an ascetic revolt against the caste system, the goal of Buddhists and Jains should be the rejection of it and the establishment of a new form of society. The evidence shows a very different picture: *Shramanas* participated in very serious debate about the qualities of true *brahmanas* (and *mutatis mutandis*, about true *kshatriyas* and members of other *varnas*). While the *shramanas* stood outside of the society, they had householder followers and thus they had to respond to the questions about the best ways society should function. Their response was affirmative to the existence of the *varna* system.¹ After these findings, to hold on to the characterization of an ascetic revolt against the caste system is equally untenable as the following claim: Marx rejected the bourgeois society and revolted against capitalism by saying that it is not a truly capitalist society (Balagangadhara 2005, 208–209).

¹ Let me mention the often overlooked evidence that supports this conclusion: There have been Buddhist and Jain *brahmanas* since the time of founding *gurus* till today (India, Bali).

These arguments have serious implications for the whole fabric of the uniting anti-caste hypothesis. If *śhramanas* stood outside of the society, but approved of the *varna-dharma*, what can we say about *bhakti* traditions? What will their discussions tell us about the Indian understanding of their society? I examine one of the most influential *bhakti* traditions, Chaitanya Vaishnavas, as an example for further discussion. How did teachers of the Chaitanya tradition talk about *varnas*? Did they discuss *brahmanas*? If yes, what was at stake in theory and in practice? I will start with the work of two important teachers in this *bhakti* tradition: Kedarnath Datta Bhaktivinode (1838–1914) and his son, who is known under his ascetic name Bhaktisiddhanta Sarasvati (1874–1937). Both are important figures, perceived as reformers of the Chaitanya Vaishnava movement. At the end of this part of the argument, I will include evidence from the earlier history of the tradition.

Bhaktivinode was much influenced by discussions with Alexander Duff and other important Christian missionaries, by readings with members of Brahmo Samaj and Unitarians, and by his studies of Western scientific literature. He knew about the European criticism of Hinduism and the caste system very well. Nevertheless, Bhaktivinode embraced the practices and teachings of Chaitanya. At the same time, he tried to respond to the British challenges from within the *bhakti* tradition, as he understood it. What do we learn from his books about the Vaishnavaite discussions of *varna* in Indian society?

Bhaktivinode's work is interesting because he seems to accept the European idea of the ascetic protest against Brahmanism, as we shall see in the summary of Bhaktivinode's opinions by Shukavak Dasa

originally the system of *varnasrama* was pure and based on scientific principles, but gradually from the time of Jamadagni and Parasurama, the system became corrupt and deviated from its original purpose. As a result, a quarrel broke out between the *brahmanas* and *ksatriyas*. . . . Due to the selfish desires of the *brahmanas*, birth as the criteria of *varna* was inscribed into the Manu-samhita and other dharma-sastras. In frustration, the rebellious *ksatriyas* created Buddhism and the *vaisyas* created Jainism and both tried to bring the downfall of brahmanism. . . . The present caste system is the corrupted remnant of that originally pure scientific *varnasrama-dharma*. (Dasa 1999, 212)

It seems that Bhaktivinoda said the same thing as the Europeans did, including the idea of the rule of degenerated priesthood, and the need for “rebellion” against it. But in fact the Vaishnava teacher was not against the *varna* system. He suggested a restoration of “originally pure” brahmanical ideals, the restoration of what he described as *vaijnanika-varnashrama*, the system based on the knowledge of ancient *rishis* (ibid., 211). His idea of degeneration is a very traditional Puranic account about the degraded age of Kali (*kali-yuga*) rather than the Christian story of the degeneration of pristine monotheism. Bhaktivinoda also thought that the four divisions of society are natural and in this sense they manifest the universal human tendency towards particular occupations: “When we consider the modern societies in Europe, whatever beauty exists in these societies depends upon the natural *varnashrama* that exists within them” (ibid., 212).

Bhaktivinoda’s book *Jaiva-dharma* contains interesting discussions for our topic. Within the book’s story, a respected Vaishnava teacher answered the following question: Why do Vaishnavas reject certain brahmanical practices? His answer started from a general remark about three paths for different kinds of people. According to their eligibility (*adhikara*) people follow one of the paths: *karma*, *jnana* or *bhakti*. But all of them have to perform auspicious activities. These auspicious activities are called *nitya-karma* (daily rites or duties) and *naimittika-karma* (occasional, due to circumstances, such as funeral rites). And for these activities a certain kind of social division is the best:

The authors of the *sastras* first examined the natures of human beings and their natural eligibility traits, and then established *varnasrama-dharma*. Their intention was to prescribe a system in which *nitya-karma* and *naimittika-karma* could be carried out in an excellent way in this world. The gist of this arrangement is that there are four natural types of human beings, classified according to the work they are eligible to perform . . . The different *varnas* are determined by nature, birth, activities, and characteristics. When *varna* is determined only on the bases of birth, the original purpose of *varnasrama* is lost. (Bhaktivinoda 2001, 47)

Our disputed topic – the relationship between Vaishnavas and *brahmanas* – was the theme of a special meeting that took place in the village of Balighai,

West Bengal, in September 1911. Bhaktisiddhanta Sarasvati addressed a huge gathering of Chaitanya Vaishnavas, including some of their most respected scholars, as well as some *smarta-brahmanas* and others. Bhaktisiddhanta had argued for three days along the following lines: (a) *brahmanas* are glorious and respected throughout the history of India; (b) but even those born in highly respected families can fall from the elevated position because of their bad activities; (c) thus they should be considered only relatives of *brahmanas* (*brahma-bandhu*); (d) all *varnas* are in a certain sense *brahmanas*, because they all came from Brahma; (e) many respected texts like *Upanishads* or *Mahabharata* tell stories about people born to a particular *varna*, who became recognized as members of another *varna*, some of the heroes became *brahmanas*; (f) therefore, a true *brahmana* is recognized as such only if he shows qualities like simplicity, truthfulness, compassion etc.; (g) Vaishnavas and *brahmanas* should maintain mutual respect, they are like brothers to each other; and (h) the divisions of *varna* were created according to the symptoms of qualities and occupations (Bhaktisiddhanta 1999). This is hardly a rejection of *brahmanas* and system of *varnas*.

The examples I chose could be criticized for representing only a specific tendency within the tradition, and also for that specific period of time. But many biographies of Chaitanya and his disciples confirm that Bhaktivinoda and Bhaktisiddhanta represent a continuity of the prevailing Vaishnava attitudes towards *brahmanas* and brahminhood. In a recent article, J. T. O'Connell, one of the most recognized scholars of the Chaitanya Vaishnava tradition, says:

Chaitanya Vaishnavas (at least as reflected in their sixteenth-seventeenth century texts) were circumspect and accommodating when relating to Brahmins and Brahmanic socio-ritual norms (O'Connell, 1993). Their copious literature records relatively little evidence of hostility of Vaishnavas toward Brahmins generally. What we do find, however, is considerable criticism by Vaishnavas of the practice of animal slaughter by a class of ritual priests of Shakta cults. And the latter stand accused of retaliating by ritually defiling the house of a Vaishnava. Scattered throughout the sacred biographies of Chaitanya we also find some harsh words about "pasandis" (hypocrites), who often are Brahmins. But these are

usually isolated remarks about particular individuals, not criticisms of Brahmans or Brahmanical norms generally.

Outside Navadvip town, . . . there seem to have prevailed reasonably good relations between the Chaitanya Vaishnavas and Brahmans at large. One reason for this would likely have been that, with certain exceptions, Brahmans stood to gain, or at least not lose, professional patronage as the Vaishnavas' influence spread. The latter, most of whose eminent leaders were themselves Brahmans, regularly invited Brahmans to grace festivals and expected them to continue to perform the various rites of passage and other domestic rituals for Vaishnava client families, provided these were done in forms compatible with Vaishnava norms. Vaishnava gurus generally confined themselves to the roles of initiating gurus, preachers, spiritual advisors and officiants at specifically devotional functions. (O'Connell 2011, 60–61)

It is important to note that Chaitanyas followed a much older tradition of Vaishnava interpretations. Their teachers repeatedly stressed the fact that birth (*jati*) is not the main criterion for decision about *varna* of a person. For example, *Bhagavata-purana* describes qualities of a *brahmana* in this way: peacefulness, self-control, austerity, purity, satisfaction, forgiveness, simplicity, knowledge, truthfulness, etc. (*Bhagavata-purana* 7.11.21). Few verses later, it is explicitly stated that although somebody is born into some *varna*, this person's true *varna* should be accepted according to the qualities described above. Respected medieval Vaishnava scholar Shridhara Svami commented on this verse as follows: The main characteristics of *brahmanas* are qualities such as peacefulness, not birth from a particular mother. If these characteristics are seen in somebody born in another *varna*, then such a person should be considered according to them, not because of his particular birth (*Bhagavata-purana* 7.11.35 and commentary of Shridhara Svami, Sanskrit original and translation in: Srila 1999, 229).²

² Tradition of stories which describe how a person from one *varna* became a member of another goes back to stories in *Upanishads*. One of the most quoted is the story how Satyakama Jabala, a son of maiden and an unknown man, was accepted as a *brahmana* because of his complete truthfulness.

From this evidence we can already argue that Chaitanya Vaishnavas considered the division of people into different *varnas* to be the best model for society in general and for their practices in particular. If they criticized *brahmanas*, the main goal of this criticism was to defend true brahmanical qualities according to their best knowledge. We do not see any doubts about the importance of *brahmanas* and other *varnas* in society. On the contrary, we see basically the same model as with the earlier Buddhists. Teachers of the *bhakti* tradition (that was supposed to be anti-caste and egalitarian) were concerned with the proper functioning of different *varnas*. They paid serious attention to the question: Who is a true *brahmana*? And similarly they sought answers to questions about criteria to discern who is a true *kshatriya*, *vaishya* and *shudra*.

It is also clear that across the centuries, Chaitanya Vaishnavas repeatedly stressed the idea that birth alone is not the main criterion for being in any *varna*. And very often they pointed to the possibility of losing or gaining another *varna* in one's life. In these debates, one of the main issues was qualification of a particular person (*adhikara*). Although Chaitanya Vaishnavas criticized certain practices of some *brahmanas* in their time (such as animal sacrifice or the effectiveness of purificatory rituals), in general they accepted brahmanical standards and values having been led by many *brahmanas* themselves. These discussions were crucial for practical problems the Vaishnava teachers were attempting to solve, such as: Who is qualified to teach? Who is eligible to give initiation to disciples? Who can perform rites for *shalagramshila*, recitations, *puja*, etc.? What behaviour is proper for a teacher?

What exactly did Chaitanya Vaishnavas mean, when they talked about qualities and qualifications that make one into a *brahmana*? I want to point to the often overlooked concept of *adhikara*, which can be roughly translated as qualification, or eligibility. It is mainly a set of qualities and natural inclinations to certain activities which makes a person into a *brahmana*, *kshatriya*, etc. Yet, in order to provide a reasonably meaningful explanation of the concept of *adhikara*, we have to develop a good theory about several lines of traditional Indian thinking. For example, Chaitanya Vaishnavas often referred to the verses of the *Bhagavad-gita* that describe what qualities *brahmanas*, *kshatriyas* and members of other *varnas* should exhibit. The works of *brahmanas*,

kshatriyas, *vaisyas* and *sudras* are divided according to the qualities that constitute their nature (*Sri Ramanuja Gita Bhasya* n.d., 575–577). There is no verse of the *Bhagavad-gita* which would describe birth (*jati*) as the criterion for a person being classified into a particular *varna*. Rather, sloka 4.13 clearly states: “The system of four Varnas was created by Me according to distinction of Gunas and Karma” (ibid., 166). In other words, natural qualities and inclinations to certain types of activities are considered. But to start understanding these discussions requires thorough reasoning about concepts such as *guna* within a promising theory about the whole cluster of ideas from the traditional Indian thought. At the moment, I cannot offer such a theory.

Caste, Religion, and Purity of Blood

Although at this stage of argument I can plausibly claim that both *shramana* and *bhakti* traditions supported the model of *varna-dharma* for society, much more must be said in order to appreciate where this discussion is leading us. So far, I have tackled only parts of the problem, although important in themselves. It is time to move towards the larger picture. What does the hypothesis about the positive attitude of *shramanas* and *bhaktas* towards the caste system imply? Do I want to say that ascetic and *bhakti* traditions wanted to uphold brahmanical supremacy, or even their “despotic rule” in India? No, I do not suggest anything that would lead us in this direction. Instead of accepting a quick solution at hand, let us turn our attention to fundamental problems of caste studies as such.

In the argument presented so far, I considered problems of the uniting anti-caste hypothesis and the plausibility of a reverse explanation. Without great precision I talked about caste in India, and especially about *brahmanas*. But do we understand what castes are? What is it that ascetic and *bhakti* traditions supported? In the first part of this section, it will be obvious soon why S. N. Balagangadhara claimed that there is no consensual scientific clarity in understanding the caste system

(Balagangadhara 2012, 5). In fact, we are far from having satisfactory explanations of *varna*, *jati* or *biradari* (domestic categories referring to groups that are most often described as “castes”). I will summarize some of the problems in the whole fabric of caste discussions, starting with European attempts to find essential properties of caste (for the analyses raised before my attempt, see Shah 2015; Jalki and Pathan 2015, 37–48; and Kavitha 2014).

Among several characteristics of caste, endogamy is considered as prime. Arguably, it is also the most puzzling characteristic, which many scholars have struggled with. After a brief overview of problems with alleged caste endogamy, I will suggest the explanation that traces the original ideas and practices of religious endogamy back to the history of Christian Europe, and especially to the Portuguese and Spanish in their dealings with Jews and Muslims as religious rivals. Here, the concept of purity of blood played a major role in the European understanding of social groups in India. The same background ideas were picked up by the British in attempts to understand their subordinates during colonial rule and they continue to shape our discussions till today.

In the last part of this section, I will summarize some of the concerns and arguments of a research program that creates a promising framework for solving the problems discussed so far. S. N. Balagangadhara has presented far-reaching arguments that show how the dominant theories about Indian culture depend on the Christian theological understanding of heathen religions. The conclusions of this theological understanding became the background foundation of later theories about Indian society in Oriental studies, religious studies, anthropology, and other social sciences and humanities. The whole structure of current caste explanations relies on a theologically shaped story of religion in India.

Problems with Theories and Definitions of Caste

Sociologists, anthropologists, researchers in Indology, and other scholars who tried to analyse the ways the caste system works have admitted serious problems and inadequacy of older descriptions. In order to see how the whole discussion has developed, let us start with older material.

In the period prior to the time of World War II, scholars had tried to provide a satisfactory definition of caste. They had followed the ideas of the nineteenth century Orientalists; some had analysed data collected during censuses in India. For this stage of the caste debates, I found the work of E. A. Blunt to be a useful overview.

Blunt was superintendent of the census operations of 1911 in the United Provinces in India and one of his duties was to make investigations “into certain specific aspects of the caste system” (Blunt 1931, v). During the twenties of the last century, Blunt collected a lot of material on the caste system that had existed so far. His book is a very serious and informed attempt to give “a full and connected account of caste as a system, which describes the factors which brought caste system into existence, the evolution of the present system, the nature of the customs common to all castes, the principles which underlie those customs and the reasons for similarity or difference between caste and caste” (ibid., v).

Blunt also strived for a clear definition of caste and this is the result:

A caste is an endogamous group, or collection of endogamous groups, bearing a common name, membership of which is hereditary, arising from birth alone; imposing on its members certain restrictions in the matter of social intercourse; either (i) following a common traditional occupation, or (ii) claiming a common origin, or (iii) both following such occupation and claiming such origin; and generally regarded as forming a single homogenous community (ibid., 5).

Right from the beginning we see the ambiguity of this attempt. The definition connects several characteristics suggested by previous authors. The most important of all is endogamy but Blunt failed to provide a clear criterion. Caste is either one endogamous group, or a collection of such groups, and this is not the same phenomenon. One excludes the other, logically. If you will have endogamous groups A, B and C, from the principle of endogamy we can easily infer that members of group A will not marry members of groups B and C, etc. Collection of any number of endogamous groups does not create one larger endogamous unit, and therefore it is not clear what constitutes its unity, allegedly comparable to one endogamous group. There are also problems with other properties which caste should

possess. For example, Blunt admitted himself that many castes do not fit the criterion of common traditional occupation (*ibid.*, 3, and chapter 12).

Let us consider endogamy as such, because it is the most commonly given property of a caste. What does evidence from the experiences of the British in India say? Although endogamy is given as one of the main characteristics of the castes and even more of the sub-castes, the British officers and scholars observed a puzzling flexibility in Indian reality:

The endogamy of a subcaste is not as rigid as that of a caste. A marriage between (say) a Brahman bridegroom and a Rajput bride is unthinkable, but intermarriages have occurred between subcastes of the same caste with no worse consequences than a purificatory sacrifice; and if circumstances make it desirable, such as lack of women, subcaste endogamy is abandoned. Even in the Brahman caste this has occurred. Subcaste endogamy is mutable; sometimes a subcaste which is endogamous in one place is not so in another. A trifling quarrel will drive two groups that formerly intermarried to endogamy: the removal of the cause of offense removes the restriction. But the most potent of all objections is the fact that endogamous subcastes are not regarded by their own members or by the rest of Hindu society as castes. To call such groups castes is to treat them as being what no Hindu would admit them to be. An investigator is not at liberty to manipulate his material so as to make it fit his theories. (*ibid.*, 6–7)

Blunt implicitly suggested that if we are talking about caste, we should use it only for the domestic category of *varna*. By the arguments quoted above, Blunt tried to refute a proposal of M. S  nart, one of the recognized scholars of the era. S  nart had suggested that sub-caste is what should be properly called caste, because it is endogamous. S  nart had reasons to delegate endogamy to sub-castes (*jati*). For example, there are description of marriages between members of brahmanical and other *varnas* in the famous *Manava-dharmashastra*. Blunt had to admit few pages later in his own book that the same kind of mixed marriages described by Manu had been occurring still in modern times. Apparently, endogamy has not been the practice by which we can clearly define a particular caste as a group different from another caste.

In this dispute so far, we have two ideas: either it is *jati*, that is an endogamous group, or it is *varna*, that is endogamous. Let us note three points: (1) There was more than enough empirical and historical evidence against both of these explanations. (2) Instead of admitting that evidence proved endogamy not to be a decisive criterion, Blunt tried to reconcile the problem by ascribing endogamy as the main characteristic to both *varna* and *jati*. (3) Despite these crucial problems of interpretation, quite a few Indian authors had no problem repeating the ideas of their colonial masters. The Western descriptions and criticism of the caste system became accepted among educated circles of India in this way (see e.g. Dutt 1931).

Moreover, many officers and scholars who tried to settle disturbing questions about caste with Indians themselves admitted serious problems along the way:

Here we may notice how complicated is the segmentation of Hindu society. It is largely this fact which is responsible for the ignorance of the average Hindu about his caste system, and the difficulty, experienced at successive census enumerations, of obtaining a correct answer to the simple question: "What is your caste?". One man will state his social class, naming one of the ancient *varnas* – especially if the claim of his caste to belong to that *varna* is disputable, and he thinks it desirable to assert it. Another will give his endogamous subcaste – especially if it sounds better than his caste. A third will give his exogamous section; a fourth will mention some caste-title. The Hindu, generally speaking, is ignorant of all social distinctions which do not affect him personally, and very careless in his statement of those that do – a fact which makes the task of the enquirer into the caste none the easier. (Blunt 1931, 8–9)

As decades have passed, scholars have been struggling with the same problems: How do we define *varna* and *jati*? What is the relationship between these two categories? How does the whole system function? Whereas some repeated the ideas about endogamy, fixed social hierarchy controlled by *brahmanas*, occupational criteria, and Marxist or Weberian theories of classes as explanations for caste divisions (Habib 2013, 161–179), others reported more and more evidence against these ideas. After World War II, different scholars pointed to examples of caste mobility, most notably described by the concept of Sanskritization coined

by M. N. Srinivas. There are many more studies about caste mobility (see e.g. Pockock 1955, 71–72; Sanyal 1971, 315–339). Others pointed to the emergence of new castes (*jatis*) (Sebring 1972, 587–600), or to the fact that occupations of a large number of members of all castes have been changing over generations. Many *brahmanas* who according to the dominant explanation should be the ruling priestly elite were in fact poor and worked in all kinds of occupations (Gist 1954, 161; Fuller 2011, 82). Meanwhile, the dispute about the origins, development and functioning of the caste system has seen the famous hypothesis of Luis Dumont of the ritual purity – pollution scale, that should define the caste hierarchy, and its refutations (Dumont 1980; Hawthorn 1982; Good 1993; Quigley 1998; Sharma and Searle-Chatterjee 2003).

Till today, scholars disagree both about the historical development of *varna* and *jati*, as well as about the realities these concepts are supposed to describe. Here is a summary of the situation from Brian K. Smith:

Different answers to the query regarding the relationship between class (*varna*) and caste (*jati*) have been put forth. In the scholarly literature, the terms “*varna*” and “*jati*” have sometimes been regarded as virtually interchangeable. Dumont more cautiously argues that the *varna* and caste systems are “homologous”, and that the *varna* system is indeed the caste system in embryo, “both of which are structural, and both of which culminate in the Brahmins.” At the other end of the spectrum we find those who regard the *varnas* as purely theoretical constructs which refer “at best only to the broad categories of the society and not to its real and effective units.” (Smith 1994, 317)

If experts are puzzled, what should the future generation of researchers think? Consider a student of South Asian history and culture who is reading assertions such as that given by Gavin Flood in his Introduction to Hinduism. Flood translated *varna* as “class” and *jati* as “caste”. At the same time, he admitted:

the human *jatis* are a highly complex social reality which incorporate within them many sub-divisions. Indeed the Brahman and Ksatriya *varnas* are also taken to be *jati* . . . The exact historical relationship between *varna*

and *jati* is unclear. It is not certain that the castes or *jatis* developed from the *varna* system. Indeed philosophical texts do not consistently distinguish between the two terms and, according to Halbfass, *jati* is used in the sense of *varna* in the Dharma Sastra literature. (Flood 1998, 59–60)

How to proceed in such a situation? Shall we discard the old concept of *varna* and study only existing *jatis*, as Srinivas suggested?³ This proposal creates a serious problem: We will have to explain why it make sense to some people in India today to identify themselves as members of different *varnas*. Therefore, the crucial questions remain: What is *varna*, what is *jati* and what are the relationships between them? And even without *varna* system, *jati* remains a puzzling category:

all these various groups – those listed by Mr. Mandal's Commission and those being catalogued by the Anthropological Survey of India – may be called *jatis*, at least in the Bengali language. But can they all be legitimately designed in the English language as castes? There appears to be a problem of translation here. The term caste answers only partly, but not fully, to what Bengalis mean by *jat* or *jati*, which may refer also, according to context and situation, to tribe, sect, and religious or linguistic minority. (Béteille 2001, 68)

It is certainly true that by *jati* people in India and elsewhere mean groups defined by quite a wide range of criteria. But our confusion is not primarily caused by a problem of translation, whether we talk about *varna*, *jati* or *biradari*. Why is there such a problem with the definition of caste? What kind of a problem is it? I will argue that it is not a problem of definition but first of all a problem of ideas that formed our understanding of society in India.

Given the fact that concepts of caste and sub-caste emerged within European thinking about society, whereas concepts of *varna* and *jati* originated in Indian thinking, we should consider the possibility that

³ “The *varna*-model has produced wrong and distorted image of caste. It is necessary for the sociologist to free himself from the hold of the *varna*-model if he wishes to understand the caste system” (Srinivas 1962, 66).

respective terms refer to different realities in two different cultures. In other words, if we want to define a concept, we have to consider the theory or theories of the relevant domains, in our case European and Indian thinking about their cultures. Definitions are created as a result of thinking within a particular theory, or at least some structure of thoughts. Even in the case of an ad hoc definition, there is some background framework of ideas that makes the definition meaningful (for more detailed discussion on theorizing commonplace ideas of a culture, see De Roover 2015, 71–72). What were the original European ideas about caste and sub-caste? How did Europeans develop their theories about society in India?

About Religious Endogamy

In the previous section, a notorious problem of caste studies was briefly discussed. In theorizing castes of India, many scholars considered endogamy to be the main characteristic of a caste. At the same time, piling evidence from several generations of research shows that we do not understand why sometimes endogamy is practiced in certain contexts and sometimes it is not. It is true for all three categories that are most often referred to by the word “caste”: *varna*, *jati*, and *biradari*. It is evident more and more that cases of hypergamous marriages cannot be dismissed as mere exemptions from the rule. D. Quigley summarized the fundamental problems that caste studies face in this regard. Following the results of Parry’s research in the Kangra hills of north-west India that reported a massive number of exogamous marriages between Rajputs and several other castes, Quigley asked:

What defines status in these contexts? Is it possible to marry up from one caste into another (and not just from one *biradari* into another of the same caste)? If so, under what conditions does this take place? Given that caste is more often than not perceived as a rather static form of social organization in which only marriage between status equals is permissible, what are the consequences for this of pervasive hypergamy? Why is hypergamy found in some parts of the sub-continent but not others where caste

organization is also reported? Indeed, why is hypergamy found at all? (Quigley 1993, 88–89)

Whether one agrees with Quigley's ideas about the role of political agency, Hindu kingdoms and hypergamous alliances or not, it is clear that endogamy is not a fixed and clear rule for any of the groups under discussion. Why did several generations of scholars insist on endogamy being the main characteristic of caste, then?

In order to understand how the endogamy explanation has developed and why it has remained an important element of our understanding of Indian society till today, we should realize the importance of several connected problems. First of all, it is not some general form of endogamy that researchers study in India. Caste endogamy is understood as being religious by nature, maintained by the rules established by the brahmanical priesthood. I am proposing that this idea has developed from a particular Christian discussion that considered Indian groups being a religious organization analogous to the organization of castes in the Portuguese and Spanish empires of the Early Modern era. Secondly, this idea found its way into the common sense understanding of India from the European point of view and finally, got the status of a neutral explanation in the course of the nineteenth century. But its intelligibility still depends on the Christian theological framework.

Several scholars have already written about the original meaning of the word *casta*, which the Portuguese used to refer to social units in sixteenth- and seventeenth-century India (e.g. Pitt-Rivers 1971, 231–256; Guha 2013, 19–25). These scholars pointed at different meanings of “caste” in those times, namely breed, lineage, tribe or race, and they also briefly discussed the emergence of the Christian concept of “purity of blood” and connected practices. Their indication of the direction for research is very important. However, I suggest that their explanations vaguely connect these different meanings without a proper consideration of the importance of the background Christian ideas and practices. Let me summarize the historical context first, before I return to my disagreement with the explanations of Pitt-Rivers and Guha.

The problem originates in the centuries of Portuguese encounters with Indian society in their colonies along the coastal areas of the

subcontinent. When Vasco da Gama's ships dropped their anchors in the harbour of Calicut, an important process of massive religious reorganization was taking place on the Iberian Peninsula. Let us remind ourselves that in 1492, Christian rulers of the recently established Spanish kingdom conquered Granada, the last kingdom under the rule of the Muslim dynasty on the peninsula. Within the areas that fell under the rule of the Spanish kingdom, the future of local Muslims and Jews was in jeopardy. Ferdinand of Aragon forced Jews out of the country by his Royal edict in the very same year. Officially since Queen Isabella's edict of 1502, conversion or emigration were the only options for Muslims too. Both religious groups suffered from violence, not to speak of loss of their homes, land and possessions. King Manuel implemented the same anti-Muslim and anti-Jewish policy in the Portuguese kingdom since 1497.

Many Muslims and Jews left, but not all of them wanted to or even could. Thus, the kingdoms of Spain and Portugal had large numbers of forced converts, called New Christians. It is not so important for my very brief overview that hostility between people from the traditional families, called Old Christians, and new converts, already had a long tradition when these events happened (see, for instance *Sentencia Estatuo de Toledo* of 1449). The consequences of this hostility are important. Old Christians soon started to see people from newly converted families as rivals in several domains, notably careers not only in the Royal army, navy or administration but also in the municipal councils, in trade etc. In some cases, new converts secretly kept their original faith and practices, a fact that was the focus of the Inquisition. In order to defend their positions and purity of faith, Old Christians created the concept of *limpieza de sangre*, literally translated as "purity of blood" (see Martínez 2008, Part One; Roth 2002).

Its meaning was simple and clear: People from the traditional Christian families had pure blood, by virtue of them being born into the long line of good Christians. However, sincere the faith and practices of new converts could be, their blood was contaminated, because their ancestors believed in false religions. It was not desirable to allow marriages between these groups, because the blood of the children from such unions was also considered contaminated. As Spanish and Portuguese

conquistadors made their way into the Americas, parts of Africa and Asia, this distinction was applied also to different groups of heathens:

The children of marriages between Old Christians and New Christians (with Jewish or Moor blood), and their descendants were considered contaminated. When transferred to India, this principle included Indians, too. To say that someone had “race of Indian”, for example, was almost equivalent to saying that he or she was like a Jew or a Moor. Moreover, there were Indians that were of Jewish descent, and there was also school of thought – or perhaps better, a rumour – that claimed that the Brahmins were of the same tribe of Israel from which the Jews descended. (Xavier 2012, 131)

Over the years, within the Iberian empires, a system of different groups emerged, which distinguished between people along the lines of family origin. Those from the “pure” Old Christian families were on the top of the hierarchy in society, with doors open to careers in the army, administration, Church, and elsewhere, attaining which was much more difficult for people from mixed or completely impure lineages. Step by step, decree by decree, the system became a closed hierarchy based on discrimination by religious descent. For example, the Portuguese Franciscans had been forbidden from accepting New Christians into their order in 1558. King Philip (the First of Portugal, the Second of Spain) expressed his dissatisfaction with the fact that Portuguese men were still marrying Indian women in Goa, in his letter of 1596. Therefore, he ordered that these men would not be allowed to hold offices in the royal administration (ibid., 132). There was a legislative process based on investigations into family lines, without which nobody could obtain a position as a knight in military orders, or in the Church:

Purity of blood statuses gradually spread through the Portuguese world, especially during the first quarter of the seventeenth century, entering both ecclesiastic and civil legislation. It also became a part of royal ordinances and the regulations of religious orders, lay brotherhoods, and military orders. (Feitler 2015, 2; see also; Hering Torres 2012, 16–17)

This is what a caste meant when Europeans started to describe their experience in the Indian society. In their eyes, analogous to their own system, different groups of the subcontinent were also divided according to religious lines. When Portuguese, Italian, and Spanish authors wrote about “castes of the Brahmans” in the sixteenth and seventeenth centuries, they understood this group in the same way as “caste of the Moors” or “caste of the Christians” (see Yule et al. 1902, 170–171). This was not the only source for the idea that the groups in India are divided according to religious principles, and I will come to other important components of the Christian theological understanding of *brahmanas* and other groups in the last part of this section.

For the moment, let me go back to the ideas presented by Julian Pitt-Rivers and Sumit Guha. Pitt-Rivers convincingly showed how the existence of “castes” was presupposed in different societies across the globe, often without suggesting a proper explanation, or at least, clear definition of the concept. He basically enumerated different meanings of the word “caste” in different cultural, geographical and historical contexts, and then doubted the usefulness of “caste” as a concept for cross-cultural comparisons. While discussing the application of “caste” by the Portuguese in India, Pitt-Rivers simply presupposed that “caste” as a descent group was an appropriate description of the caste system of India “which also happened to entertain notions of purity and pollution, albeit very different ones from the Portuguese” (Pitt-Rivers 1971, 253). Even if we would agree on the existence of “notions of purity and pollution” in India, why should the Iberian system of descent groups, divided on the principle of the religious faith of ancestors, be an appropriate description of India?

Sumit Guha’s is a more precise account, where he points to the connection of religious and racial characteristics in the concept of *limpieza de sangre*. Apparently, Guha agrees with the line of historians who argue for the existence of racial discrimination and racist attitudes among Europeans since the Middle Ages onwards (Guha 2013, 24). The problem of race and racism cannot be discussed here properly. However, it looks as if Guha ignores the background religious ideas about caste in his description and stresses only the biological meaning, because he states that the Portuguese of the sixteenth century perceived various groups in their empire as “biologically distinctive (and ranked)” (see

Guha 2013, 22). I have two objections to this move in interpretation. Firstly, while talking about “biological” distinctions, we have to think of the biological or physiological theories of the Europeans in the Early Modern era. They considered body, mind and soul as closely connected, and only within this framework did it made sense to talk about blood being contaminated by the religious faith of the ancestors. Secondly, Guha’s description does not give proper importance to the religious concerns, which were the dominant forces behind the fears of polluting blood and family line. The established processes for purity of blood investigations illustrate the point very well: Their main concern was the religious faith of the ancestors in both the paternal and maternal lines, and they were closely connected with investigations of heretical ancestry (see Fleming 2016).

Let us turn back to the development of the European understanding of Indian society. Originally, Europeans knew of few groups, like *brahmanas* or *kshatriyas*. Here and there, they experienced evidence of a ban on inter-group marriages. Naturally, immersed in the teaching and practices of their own culture, the Portuguese in India started to see these groups as “castes” maintaining endogamy along the religious lines. This is how originally Christian ideas and practices of religious endogamy entered discussions about society in India. The number of different groups described as castes grew, as reports from missionaries, travellers and diplomats were gathered over centuries, reaching eighty four by the second half of the seventeenth century. By the nineteenth century, Europeans wrote about “thousands and thousands” of castes, that could not ever finally be counted (Yule et al. 1902, 170–171). I suggest that despite the cumulative experience with many different social groups in India, the original model of a religiously sanctioned endogamous division that has its origin in Christian dealings with Muslims and Jews after the *reconquista* in the empires of Spain and Portugal became an accepted explanation for divisions in Indian society.

Although this hypothesis is in the initial stage of development and needs more research, I can already point to an example of the Orientalist explanation based on the alleged similarities between *casta* as discussed above and the divisions in Indian society. B. H. Hodgson was one of the early British Orientalists who took for granted the analogy between

Christian dealing with religious rivals in the kingdoms of Portugal and Spain and castes in India. Hodgson relates how he was introduced to an old Sanskrit manuscript, which turned out to be the *Vajra-suci*, a Buddhist composition of uncertain age. It contains a discussion between a Buddhist and a Shaiva about *brahmanas* and brahmanhood. According to Hodgson, the Buddhist speaker attacked “the Brahmanical doctrine of caste”, which is a very problematic reading of the text itself. But let us note first that the above-mentioned analogy considering religious rivals was a natural explanation for the British Orientalist (emphasis mine):

We all know that the Brahmanas scorn to consider the Shudras as of the same nature with themselves, *in this respect resembling the bigoted Christians of the dark ages, who deemed in like manner of the Jews*. The manner in which our author treats this part of his subject is, in my judgment, admirable, and altogether worthy of a European mind. *Indeed it bears the closest resemblance to the style of argument used by Shakespeare, in covertly assailing the analogous European prejudice already adverted to*. I need not point more particularly to the glorious passage in the Merchant of Venice: “Hath not a Jew eyes, hands, organs, dimensions, senses, passions; fed with the same food, hurt by the same diseases?” etc. (Hodgson 1831, 161)

This is how old Christian ideas and experiences continued to shape the basic understanding of Orientalist research. This very text is interesting for our discussion also for another reason. Hodgson considered *Vajra-suci* to be an attack on the *brahmanas* and the caste system in general, but this reading is untenable even upon a careful scrutiny of his own translation. The Buddhist critic gives arguments against several properties that should make one into a *brahmana*, namely birth, body, learning, or even certain activities such as rituals, or recitation of the Vedas. But what Hodgson did not see is the assertion of other qualities and abilities that constitute true Brahmanhood:

What then is this creature called a Brahman? If neither reading the Vedas, nor Sanskar, nor parentage, nor race (Kula), nor acts (Karam), confers Brahmanhood, what does or can? To my mind Brahmanhood is merely an

immaculate quality, like the snowy whiteness of the *Kundh* flower. That which removes sin is Brahmanhood. It consists of *Uráta*, and *Tapas*, and *Neyama*, and *Ripavas*, and *Dan*, and *Dáma*, and *Sháma*, and *Samyama*. It is written in Vedas that the gods hold that man to be a Brahman who is free from intemperance and egotism; and from *Sanga*, and *Parigraha*, and *Praga*, and *Dweshá* . . . From all which I infer, that birth, and life, and body, and wisdom, and observance of religious rites (*achár*), and acts (*karam*), are all of no avail towards becoming a Brahman. (ibid., 164)

Although the arguments are directed against certain properties as crucial for a person to be a *brahmana*, there is no rejection of brahmanhood as such. *The Buddhist critic rejects one set of properties in favour of another, which truly “confers Brahmanhood”*. Throughout the text, the same qualities and abilities are pointed to several times. In doing so, the author of *Vajra-suci* continued the same kind of Buddhist debate as analysed in the previous section. Why did learned Orientalists such as Hodgson understand these ideas in a very different way? In order to answer this question, we have to consider the idea about anti-caste movements in a much broader theoretical framework.

Caste as Part of the Story of Religion in India

Given all the problems discussed so far, we are now in a position to appreciate the contributions of S. N. Balagangadhara's research programme of the comparative science of cultures. His is a unique research contribution because his theories have been developed in the best tradition of modern philosophy of science. Thanks to the insights from the philosophy of science we can look at the development of scientific knowledge as a process, where not only theories but also whole paradigms or research programmes compete. Western thinking about society in India has developed within a particular framework that can be called a paradigm in terms of the philosophy of science. If this paradigm remains in fact constrained by Christian theological thinking, as S. N. Balagangadhara argues, then it does not fulfil several crucial requirements of scientific analysis. One of the most important requirements is the never-ending search for contradictions in our interpretations. When such a contradiction is found, we should work on

its tentative resolution. But as we already observed in the case of the caste system, serious problems both with the basic claims of the dominant story and with several particular ideas (such as endogamy being the main characteristic of a caste) have not lead many scholars to a fundamental reconsideration of the whole framework of ideas about the caste system.

Another important point from the philosophy of science which is pertinent to the re-examination of ideas about the caste system is the relationship between theories and observations. Whereas many scholars in the humanities and social sciences still implicitly believe that from correct observations in the field we can derive the right interpretation, philosophers of science warn against such a simplistic approach. There is a paradoxical problem: All facts that are results of scientific observations are “theory laden”. It has also been disputed to what extent theories determine what can be observed at all:

there is no such thing as unprejudiced observation. All observation is an activity with an aim (to find, or to check, some regularity which is at least vaguely conjectured); an activity guided by problems, and by the context of expectations . . . There is no such thing as passive experience; no passively impressed association of impressed ideas. (Popper 2002, 55)

How do these ideas help us in our discussion about the caste system? I suggest that we start with the analyses of a framework, or paradigm that has been crucial in the European attempts to understand society in India. Balagangadhara’s research program brings to our full attention the continuing importance of the Christian theological paradigm in European thinking about other cultures. He asks how the culture of the observer is reflected in the descriptions of the observed culture. His answers provided an interesting understanding of both European experiences of other cultures and of the ways we, Europeans, experience and think about our own culture. The concept of religion has played a fundamental role in the European encounters with other cultures, and our interpretations of India were not an exemption. I will use only one part of Balagangadhara’s argumentation, which shows how an originally theological story of the “degenerated religion of the Indian Heathens” was transformed into the widely accepted religious history of Hinduism.

Given the scope of this text, the following summary will be sketchy, leaving aside many important points.⁴

Since the early Christian apologetics, European intellectuals have understood different cults of the Ancient world as false religions, in contrast to their true religion. This simple division gradually built up a framework of thinking that does not allow for other interpretations. Whatever other previously unknowns cultures Europeans encountered in the course of the Middle Ages and later, the range of their possible interpretations was constrained by this understanding: either they would meet heathens, or heretics (which could be extended to Jews and Muslims alike) or there would be Christians “out there”. Discovering other cultures was closely connected with another important fruit of the Christian apologetics – the concept of the universal history of humankind. With a firm belief in the historical truth of the Biblical stories, Europeans included more facts about newly discovered cultures into speculations about the descendants of Noah. There were other important concepts and discussions about them that were meaningful in this framework, such as ideas about God, soul, salvation, sin, good and evil, or justice and law.

When Europeans started to discover more about India since the end of the fifteenth century, they encountered several problems in understanding the Indian society. It was not clear why people respected *brahmanas* and ascetics so much. It seemed to be clear that the non-Muslim majority followed rules of behaviour that must have been rather complex, but what were their foundations? The search for Indian laws started, rooted in the unquestioned truth of the Biblical story about God the original lawgiver. In this perspective, all nations had some access to revealed laws, or at least the innate capacity to formulate some of them. Also, Europeans could hardly step out of their domestic experience of order in society and its laws. It was difficult for them to see that what they considered as universal principles were in fact particular results of the Christian reworking of Ancient Roman law. They sought the Indian

⁴ In order to appreciate several connected and important arguments, it is necessary to read at least the Introduction and chapters one to eight of Balagangadhara (2005, 1–288).

law that was inevitably supposed to be a part of the heathen religion. Although both Catholic and Protestant missionaries gathered a lot of interesting material in this regard, the task to discover “Hindu Law” was completed by early British Orientalists.

Within the framework of European theological understanding, *dharmashastras* ascribed to Manu, Apastambha, Gautama and others became the fundamental laws of the heathens. When William Jones translated *Manava-dharmasastra*, he considered it to be the oldest document of the heathen law. We should remember that in the eyes of early British Orientalists the heathen law meant a corrupt version of the originally pure laws revealed by God to humankind since the times of Adam and later Noah. Such religious explanations played a crucial role in the determination of European questions and range of possible answers to them. Thus, Manu was considered to be the Moses of India and William Jones looked at himself as fulfilling the same noble task as the Roman emperor Justinian once had done.

One clarificatory remark: There is no question that *Manava-dharma-shastra* and other such works did play some role in conflicts and courts’ proceedings. But let us keep in mind the repeated complaints from the judges of the East India Company that they did not understand decisions made by the domestic court *pandits*. In fact, this was one of the main reasons why W. Jones decided to learn Sanskrit and to translate Manu. Local scholars employed by the British Court in Calcutta often passed a judgment, which was incomprehensible to Jones’ mind, that of a Western lawyer. We should also consider the fact that a large number of conflicts were settled by families, friends or *panchayats* and this continues till today. These incidental facts indicate that the people of India have developed a very different system of problem-solving, including the punishment for crimes, from the Western legal framework. What if the *dharmashastras* played a very different role from that of the European codes of law?

Although it seems that Early Orientalists had developed new theories free from the Christian theological roots, Balagangadhara has convincingly argued for the opposite conclusion. These theological roots, or better to say the whole framework, faded into the background of the discussions during the second half of the nineteenth and in the twentieth centuries. But its questions, problems and whole clusters of ideas still

form and constrain the kind of discussions we have today. Many Christian ideas became the “of course” axioms of the secularized Orientalist paradigm. Since the first publication of Balagangadhara’s analyses, several other authors have shown how the celebrated Orientalists, such as William Jones or Thomas H. Colebrooke continued with the old theological questions in their research.⁵

The story of religion in India has played a central role in many speculations since then. The cumulative efforts of several generations of Orientalists created a very convincing account. It is a story of religion, which started with the coming of the Aryans to India more than three thousand years ago. Aryan ritual specialists, *brahmanas*, soon enjoyed the power gained by their special knowledge and usurped the rule over early Indian society. Their supremacy was sanctified by scriptures, the *dharma-shastras*. Here, we are supposed to have the sacred basis for the model of hierarchical society with *brahmanas* on the top and untouchables at the bottom. This is how original Vedism degenerated into Brahmanism, said the Orientalists. The four castes, *varnas*, tried to keep clear divisions between themselves by observing strict rules of marriage only within the respective *varna*. However, caste endogamy was difficult to maintain and therefore the Indian people created more and more sub-castes, called *jati*. Meanwhile, there was a growing unrest in the ancient Indian society:

There came a time, therefore, when priestly doctrines and popular beliefs became irreconcilable. Brahmanical pantheism, whose only deity was a hypostatized abstraction, wholly cold and wholly colourless, could not possibly attract worshipers who looked on their gods as personal conscious beings, both vigorous and active. It is probable, too, that the sacerdotal class had already begun to arrogate to itself authority in other spheres than that of religion, and had thus aroused the resentment of the Kshatriya nobility. Both the Brahman and the Brahmanical religion became thoroughly unpopular; and the result was that other religions arose, of which two were definite revolts against Brahmanism, . . . Buddhism . . . and Jainism. (Blunt 1931, 278)

⁵ Among several studies of the topic, I found the following two to be the most interesting: Trautmann (1997) and App (2010).

For some centuries, Buddhism gained the major influence over the subcontinent. But *brahmanas* were skilled in the adaptations of some attractive features of Buddhism, and in the course of the first millennium AD they won back their supremacy. It was not without other necessary changes, such as the absorption of “primitive” and “low” religious ideas and practices, especially Tantric. At this stage we are talking about fully developed Hinduism. Yet, the victorious *brahmanas* were not destined to enjoy their rule without opposition. The rule of the priestly class was challenged by new *bhakti* movements.

The textbook story outlined above was constructed on the basis of answers to originally theological questions. This view presupposes the existence of one original Indian religion and its degeneration from Vedism to Brahmanism and later to Hinduism. Who was responsible for the alleged degeneration? Europeans found their answer: *brahmanas* were portrayed as the crafty priesthood, deceiving the large masses of people in India. *Brahmanas* created the caste system and thus maintained their rule over the society (Gelders 2009a, 563–589).⁶ The same explanation remained the basic framework for later sociological speculations about caste as specialization in occupation (Marx, Weber) and racial theories (Max Müller, Risley, McDonnell, G. Childe). And in the cumulative work of Orientalists, sociologists and others, it remains the background framework of ideas about caste till today (see further chapters by De Roover and Keppens, this volume).

Conclusion

Against the uniting anti-caste hypothesis, I defend an alternative explanation. We should not accept the idea of Buddhists and *bhakti* traditions as protestant anti-caste movements, as the forerunners for Dalit activism today. That hypothesis is untenable in the light of textual and historical

⁶ It is noteworthy that the interpretation of *brahmanas* as a priestly ruling class was repeatedly challenged by European experiences of *brahmanas* who did all kinds of occupations, and who were among the poorest groups in some regions. This strange fact was noted by different Orientalists, but they explained it away by different strategies.

evidence. It is clear that both Buddhists and Vaishnava *bhaktas* asserted *varna-dharma* as the best form of society. Even the Pali canon does not offer any evidence for the Buddhist rejection of *brahmanas* and *varna-dharma* as such. The same is true for Chaitanya Vaishnava teaching. These *bhaktas* were proponents of *varnashrama* ideals for society in India. They continued the old *shramana* discussion on the question: What makes somebody into a *brahmana*?

In their answers, Vaishnavas shared Indian ideals of compassionate, self-restrained, and wise people who strive for wisdom and who serve others. Bhaktivinode Thakura and Bhaktisiddhanta Sarasvati argued that *varnashrama-dharma* is the best condition for the development of *bhakti*. If Buddha said that the goal of *brahmanas* and *shramanas* is the same, these Vaishnava teachers said that brahmanical qualities are necessary for a *bhakta* to advance on the path of *rasa*.⁷ In both cases, teachers of these Indian traditions wanted to retain the system of four *varnas*. If they criticized *brahmanas*, it was because in their eyes those particular *brahmanas* were not following the path of their *dharma* and, consequently, they were not true *brahmanas* any longer (Vaishnavas coined a special concept – *brahma-bandhu* – for these cases). Although we yet need to formulate a good theory of *varna* and *jati*, from the discussion of ascetics and *bhaktas*, it seems that they might have been fighting a tendency towards hereditary brahminhood, but that they do not reject brahminhood as such. And they were apparently concerned also with the ways proper *kshatriyas* and members of other *varnas* should act.

What better understanding of problems with caste and *varna* can we get from our discussion so far? First of all, the discussion remains constrained by Christian theological thinking, which created the story of religion in India and its decay in the hands of a crafty priesthood. There are different variants of this explanation. Some authors thought different *jatis* developed with the religious split and exogamous mixture from the original four *varna* system. Others did not believe in this model

⁷ Sanskrit term *rasa* is used in some *bhakti* traditions as generic category for a number of emotional and aesthetical experiences. It is like a concert of main and subordinated emotions, with all kinds of their subtle shades that makes the relationship between a *bhakta* and his beloved god very intense and dynamic.

and argued for a different emergence of *jatis*, such as specialization in occupations. But all of them agreed on the crucial role *brahmana* priests played in the Indian society. It makes sense to talk about religious hierarchy in Indian society and about the protestant *shramana* and *bhakti* movements only from this point of view. This idea is intelligible only if we presuppose the truth of several theological ideas. Caste was in a general sense perceived as a religious institution sanctioned by fake scriptures, as an institution that allegedly upheld the rule of priesthood. And specifically, caste was seen as an institution based on religious endogamy analogous to divisions between Old Christians with “pure blood” and new converts in the empires of Portugal and Spain from the fifteenth to eighteenth centuries.

Secondly, should we keep the dominant ideas about the caste system as they are, we will not be able to move towards understanding Indian culture at all. The British colonial rulers considered the caste system to be rooted in and sanctioned by religious (Hindu) law and this is a part of the dominant explanation till today (see e.g. Davis 2010, 106, 173). Given the whole framework of originally Christian thought and experience, Europeans were more or less compelled to see the Indian society in this way. On the way to better understanding, we face two different, yet connected research topics. One aims at developing new theory of the phenomena described by the Indian terms *varna* and *jati*. This is the final goal of our attempts. Before we can proceed in this direction, it will be necessary to get insight into the traditional Indian understanding of these concepts. Only then we can consider in what sense this traditional thinking is relevant to theorizing society in India.

If we really want to take the traditional Indian understanding seriously, a new approach to its research is absolutely necessary. It will focus on theorizing the domestic Indian framework within which ideas such as *guna* (mode of nature), *adbhikara* (eligibility or qualification) and *svabhava* (natural inclination) make sense. This kind of research will create new hypotheses, which should enable us to answer important questions such as: What is the Indian framework of understanding of *varna*, *jati* and *biradari*? How do Indians decide about the status of different people?

But how do we get access to traditional Indian understanding of *varna* and *jati*? Why could we not go and discuss the matter with Indians themselves? Here I wish to stress the point Balagangadhara made. It is difficult to have a reasonable discussion about these problems with many Indians today. Generations educated under British rule have passed the colonial legacy to people of independent India:

Indian intellectuals and reformers enthusiastically embrace the criticism of the Brahmin priesthood, which was a reformulation of the Protestant criticism of Catholic Christianity, as scientific criticism of the caste system. How is it possible to have a firm moral opinion on the caste system, when no one understands what that system is? ... As indicated already, the Western cultural experience of India has assumed the status of a scientific framework for describing Indian culture and society... In this process, one accepts that the European cultural experience of India is a scientific framework for Indians to understand their own culture. However, this very acceptance prevents them from accessing their culture and experience. (Balagangadhara 2012, 116–117)

In such a situation it is not possible to proceed just with answers to questionnaires collected from Indian towns and villages. British census officers and anthropologists from both West and East have done a lot of such research with no satisfactory results, as was already mentioned. In Popper's words, their research was guided by their specific horizon of expectations. We should carefully analyse the ideas that led to the formulation of problems within this horizon. They have to be analysed within the whole framework of thought, with its basic axioms and ideas. By looking closely at one problem after another, we can begin to see how certain puzzles and contradictions emerged, what the initial questions of the researchers who started to form the field of caste studies were and how the whole discussion transformed in the course of time. Only after this we can develop better theories.

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6

A Nation of Tribes and Priests: The Jews and the Immorality of the Caste System

Jakob De Roover

In the currently dominant discourse about Indian society, the caste system appears as an immoral social structure. This moral dimension is perhaps most visible in political and popular rhetoric. Award-winning author Arundhati Roy (2014) calls the caste system as “one of the most brutal modes of hierarchical social organisation that human society has known.” A report published in the UK, titled *The Evil of Caste*, denounces the system as “the largest systemic violation of human rights in today’s world” (Chahal 2008, 1). The same type of judgement is present in academic scholarship also. By deploying the caste hierarchy, one scholar writes, “Brahmins did not articulate ‘human rights’ but ‘caste rights’, which had the side effect that, in the course of time, about one-fifth of the total population, as ‘outcastes’, had virtually no rights. They were treated worse than cattle, which even in legal theory ranked above them” (Klostermaier 2007, 296–7). Or in the words of

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another scholar: “Untouchables...were dehumanized by the caste Hindu order” (Rao 2010, 1).

Importantly, the claim made by these authors is not simply that Indian society, like other societies, is home to unethical practices that need to be discarded, say, discrimination or violence against particular groups. To appreciate what is being said, it is important to distinguish between two dimensions of the dominant discourse about caste – a factual and a moral dimension. The first concerns the empirical properties attributed to the system: the Hindus are divided into a variety of castes and sub-castes; caste forms a hierarchical social organization; Brahmins traditionally occupy the highest position in the caste hierarchy and possess certain privileges; endogamy and commensality play major roles in the interaction between different castes, as do practices of untouchability and concerns about purity and pollution.

From these factual claims, descriptions of the caste system easily move to moral judgements. They do so by highlighting certain practices as blatant instances of caste discrimination: members of some castes cannot take water from the same wells or drink from the same cup as other castes; often, they are not allowed to enter the homes and temples of the latter. Untouchable castes have to live in separate quarters in a village and keep a physical distance from upper-caste members. Caste membership decides issues like who is an acceptable partner for marriage or which persons can have food together. According to these descriptions, anyone who defies the customs of caste is subject to violent reprisals: expulsion from one’s caste, general ostracism, degrading treatment, and physical violence.

When authors identify such practices as reprehensible behaviour, they do something more. According to them, the practices instantiate the recurring patterns of interaction that characterize caste as a social system. The relevant practices are manifestations of the structure that attributes a superior position to certain castes and an inferior one to others. Moreover, these authors suggest the fact that deviant behaviour is punished so severely shows that it is understood as a violation of something. Of what? Since there is no political or religious authority that imposes explicit caste laws, it must concern violation of a different kind of rule: the kind that states moral obligations. In other words, according

to the dominant discourse about caste, these odious practices *must be manifestations of the principles that constitute the caste system*.

As Balagangadhara (2012, 104) argues, this discourse implies that “the caste system is an immoral social order twice over: not only does the practice of caste discrimination violate certain moral norms but also, as a social order, *it makes immorality obligatory*.” Caste is a brutal mode of hierarchical social organization because its rules *compel* people to act in inhumane ways. This is the moral dimension of the dominant discourse about the caste system: it is viewed as a social organization that *transforms immorality into a duty* by representing its practices as moral obligations, even though they are immoral.

This characterization of the caste system is inherently implausible, Balagangadhara points out. On the one hand, it transforms the large majority of Indians – all those who have not explicitly and unfailingly renounced the caste system – into immoral beings bound to discriminate and dehumanize. On the other hand, it implies that the same people show a moral integrity of a perverse kind. They are immoral “not because they violate moral obligations but because the obligations which they obey are immoral in nature” (2012, 108). That is, it is their desire and capacity to be moral by consistently living up to one’s duties that transforms them into immoral beings. Thus, these descriptions carry two contradictory messages: the meta-level message suggests that Indians are rational and moral by consistently following a set of rules or principles; the object-level message says just the opposite, since the same people systematically engage in immoral and irrational behaviour (Balagangadhara 2012, 109).

According to the textbook story about caste, then, generation after generation of Hindus lived by unethical rules and raised their children to do the same. Even worse, they did so in the face of a variety of movements that revealed the injustice of this system and aimed to abolish it, from Buddhism and the Bhakti traditions to the British missionaries. The same story suggests that it is only because this message eventually penetrated the minds of educated Indians that the post-Independence state implemented legislation that abolishes untouchability, penalizes caste discrimination, and aims to set right the historic injustices of caste. Still, commentators lament, these laws have had little impact on

the attitudes of the average Indian: caste violence and discrimination thrive in contemporary India (see Jalki and Pathan, this volume). Consequently, the Indian people must show a stubborn insistence to live by this system of obligations and prohibitions, even after receiving recurrent proof of its immorality.

If this textbook story is correct, the caste system must have an extraordinary capacity: as a social structure, it is able to blind the men and women living under its spell to such an extent that they cannot see what everyone else appears to see so easily. To those who are not part of the caste system, it appears to be self-evidently immoral; in contrast, those who live in its confines remain blind to its immorality and continue to follow its rules. How did this implausible conception of the caste system come into being? How could it be reproduced for centuries as though it constitutes a veridical description of Indian society? One thing is clear: since this conception of caste implies that “insiders” cannot see the true nature of the caste system, it must necessarily be the result of the observations of “outsiders.”

Because of Balagangadhara’s work (1994, 2012), we are aware today that the dominant representations of Indian culture and society emerged within the framework of Western culture and tell us more about the constraints of the Western experience than they do about India. Thus, we know where to seek answers. This chapter will do so by focusing on the emergence of the factual and moral structures that are attributed to the caste system today. That is, it aims to take some steps forward by examining the different elements that coalesced into the dominant conception of caste as an immoral social system.

The first section looks at the crystallization of the idea that the Indian subcontinent was populated by a nation divided into a hierarchy of four tribes and united by a common religion. Surprisingly, this description appears to have mapped the Indian people and culture onto the structure of the Jewish nation described in the Old Testament. The second section examines the moral dimension of the discourse about caste. The belief that India was home to an idolatrous nation inevitably led to negative judgements about some of the practices and customs found there. Both Catholic and Protestant authors condemned the Brahmins as a self-interested and deceitful priesthood. However, for many decades, such

descriptions went together with ambiguous statements about the morality of Hindu society and its division into castes.

The third section raises a central question: if earlier authors wrote about the moral status of caste in different ways, which change in conditions accounts for the crystallization and consolidation of the conception of caste as an immoral social system? The causes behind this shift, I suggest, lie neither in increasing knowledge about Indian society nor in some general process of moral progress, but in a very different factor: the impact of the Protestant Reformation on Western culture and its understanding of other cultures. As a result of an internal shift in the Protestant views of India, the conception of caste acquired a more systematic and coherent structure than it had known before. It became “the *system* of caste,” an institution that merged religion and civil law and presented the rules of caste as religious obligations. In the concluding section, I raise some questions for future research that emerge from the discovery that today’s moral discourse about the caste system is almost identical in structure to that developed by Christian missionaries in the nineteenth century.

The Facts of a Heathen Nation

Most observers today would agree that caste in India constitutes a hierarchical system, which traditionally organizes the social life of the Hindus and the many castes into which they are divided. This is the minimal factual structure attributed to the caste system, without which there would be no *system* to speak of. It is only in the course of the seventeenth century that this particular way of ordering the European observations of Indian society emerged in travel accounts and missionary reports: the notion crystallized that one “Gentile” or “heathen” nation populated India, which was divided into four general tribes or lineages, subdivided into many clans, and held together by an institution that ranked these tribes according to nobility and purity.

Did this notion emerge as the result of more accurate observations and the accumulation of empirical data about Indian society? This is implausible. For one, it ignores the conceptual problems that we still face in understanding the Hindus as a nation united by a common religion and caste hierarchy. From the nineteenth century onwards, the study of Indian society would produce more and more anomalies that undermined this account. During the colonial census, attempts to categorize the various groups of “Hindus” according to a caste hierarchy revealed that it was impossible to do so in any coherent way (Blunt 1931, 8–9; Dirks 2002, 49, 202–12; Strachey 1911, 328–30). Consequently, the account could hardly be the result of the accumulation of information. Moreover, such ordered descriptions always depend on the concepts available to the describer. That is, when early modern European observers described the people of India as a nation consisting of a number of tribes or lineages organized into a hierarchy, they drew upon a particular set of conceptual resources, including notions like nation, tribe, and heathen religion.

Consider the observations made by two very different European travellers to India: the Italian adventurer and Catholic nobleman Pietro Della Valle, who travelled through the south of India in the 1620s, and the Dutch East India Company translator and Calvinist cleric Abraham Rogerius who stayed on the Coromandel coast in the first half of the seventeenth century. Della Valle wrote as follows:

The whole Gentile-people of *India* is divided into many sects or parties of men, known and distinguish by descent or pedigree, as the Tribes of the Jews sometimes were; yet they inhabit the Country promiscuously mingled together, in every City and Land several Races one with another.’ Tis reckon’d that they are in all eighty four; some say more, making a more exact and subtle division. Every one of these hath a particular name, and also a special office and Employment in the Commonwealth, from which none of the descendants of that Race ever swerve . . . (Grey 1892, 77–8)

All these “tribes” or “races,” Della Valle suggested, were derived by minute subdivision from the four principal ones, namely “the Brachmans, the Souldiers, the Merchants and the Artificers.” The Brahmins are held

the noblest and purest, “because their employment is nothing else but the Divine Worship, the service of Temples and Learning, and because they observe their own Religion with more rigor then any others.” Again, he compared this to Judaism: he pointed out that the Brahmins among the Indians much resemble the Levites of the Jews. They too are divided into several sorts, with gradations of nobility, which also make them more rigorous in manner of eating and in superstitious ceremonies. They are astrologers, scholars, physicians and secretaries, “but the most esteem’d and most sublime amongst the Brachmans, and consequently the most rigorous of all in point of eating and other observances, are those who perform the Office of Priests, whom they call *Boti*” (Grey 1892, 80).

In a work titled *The Open Door to Hidden Heathendom* (1651), Rogerius wrote in very similar terms about the people he encountered on the Coromandel coast. He presented them as “a heathen nation” consisting of four general tribes (*stammen*) or lineages (*geslachten*), each of which was valued higher than the next. The first and most distinguished was the “*Tribus*” of the Brahmins (Rogerius 1651, 2–3). Their office was to teach others and particularly to inculcate heathenism (*ibid.*, 29–30). The law book of these heathens was the *Veda*, a text which contained everything they had to believe and all the ceremonies they had to perform. It ascribed a special status to the Brahmin tribe and provided them with certain privileges and prerogatives by divine injunction (*ibid.*, 3, 26). The Jews also played a central role in Rogerius’ account: in the notes to his work, he pointed out the many resemblances between Jewish institutions and practices and those of the Brahmins (occasionally, he also compared the customs of the Indian heathens to those of other peoples like the Arabs, Chaldeans or Egyptians). In several cases, he even drew upon biblical references to suggest that the Brahmins had adopted practices and stories from the Jews (*ibid.*, 10–11, 33, 60).

What is striking about these two accounts is the parallel they draw with the Old Testament Jews. At first sight, this may appear as a typical instance of describing the unknown in terms of the known. While true, such a claim misses what is happening in these texts: the very structure attributed to the “Gentile” people of India by these authors transformed it into a variant of the ancient nation of Israel. That is, the descriptive

terms invoked by Della Valle and Rogerius indicate that they had already ordered their perception of the Indian people and traditions by mapping these onto the Jewish nation and religion described in the Bible.

The image of “a heathen nation” made up of “tribes” or “lineages” derived from the conception of the Jews as a nation consisting of tribes that were traced to different forefathers and united by a common religion and worship of God. When Della Valle said that “the employment” of the Brahmins is nothing but “the divine worship and the service of temples and learning” and that they hold “the office of priests,” he had already transformed them into an equivalent of the tribe of the Levites, whose role in Jewish religion was described along similar lines (Grey 1892, 77–80). It is after having conceptualized “the heathen nation of India” as a variant of the ancient nation of Israel that these seventeenth-century authors then postulate explicit similarities between the Indian heathens and the Jews. The Brahmins among the Gentiles, Della Valle said, resemble the Levites among the Jews. In fact, Rogerius (1651, 10–11, 33, 60) added, it was not simply the case that Jews and Brahmins had many things in common but also that the latter had adopted practices and stories from the former.

Tribes and Priests

According to the Old Testament, the tribes of the Jews had become one nation through a covenant with God. The offer and substance of this covenant was revealed to Moses at Mount Sinai and engraved in the tables of the Decalogue, which were then deposited in the Ark of the Covenant. While the laws given with the covenant expressed God’s requirements of Israel, His offer of covenant also came with a divine promise: “You shall be to me a kingdom of priests and a holy nation” (Exodus 19:6). The priesthood had the responsibility of maintaining the unique covenantal relationship with God and possessed the prerogative to expound the Mosaic law, minister to the Ark, and sacrifice at the central sanctuary (McCreedy 1979–1988, 965; Rehm 1992, 305).

Members of one of the tribes, that of Levi, were set apart and divinely appointed as priests to perform the religious ceremonies (or as lower priests that served at the temple). These Levites held the office of priesthood not because of a vocation, but because it was an exclusive hereditary office passed on from generation to generation. With this office came special privileges that distinguished them from ordinary Israelites:

A drastic and clearcut distinction was made between the sphere of the cult and the rest of the community The 'realm of contact with God' (the sacrificial places) had limited access and demanded skilled entrance. Only one group of people was permitted, by the grace and appointment of God, to come into contact with the holy areas – the priests. (McCready 1979–1988, 967)

The Levite priests also played a central role in the assessment and treatment of impurity. Disease was considered the tangible embodiment of an impure spirit, which had to be cured through specific acts of purification. "The priests dealt with impurities and diseases as a regular part of their profession, for the continued presence of impurity would eventually undermine their sacrificial system and the status of their holiness as representatives of the people." Old Testament passages show that this "kind of activity eventually grew into a highly sophisticated system of judging and anticipating impurities of animals and carcasses, bodily disorders, etc., as well as impurity of corpses" (ibid., 968).

The basic concepts of this account of the Jewish nation, I would like to suggest, structured the experience of early modern European observers of Indian society. These authors understood the division of the Hindu people into "castes" along the lines of the tribes of Israel and their subdivisions into clans. The Brahmins were the equivalent of the Levites or "the tribe of the priesthood." Once this basic structure was in place, later authors began to draw on the same set of conceptual resources to make sense of the traditions and practices they encountered in India. On the one hand, these descriptions of caste explicitly compare the practices and religion of the Hindus (or Indian heathens) to those of

the Jews. On the other hand, they implicitly model the people and culture of India onto the Jewish nation and religion by using the relevant concepts from the Old Testament as though these offer adequate terms to understand a people living more than 1,500 years later in a region far away from the Middle East.

In a work translated into English by the Deist John Toland and published in 1705, a French author of uncertain identity, named De la Crequinière, argued that the practices of the Indian pagans corresponded with those of the Jews. He admitted that many of his conclusions about the agreement between the customs of the Indians and those of the Jews and other ancient peoples were conjectures. But some he presented as basic facts: “The *Pagan-Indians* are divided into *Tribes*, as formerly the *Jews* were” and besides the general division, “each *Tribe* is divided into an infinite number of others, which are quite different from one another, either in their Food, or in something else.” What the Jews called tribes, he added, the Indians “call *Castes*, i.e. *Clans*.” Both knew of a hierarchy but this was much stricter among the pagan-Indian nation, where a strict antipathy ruled towards the most contemptible castes such as that of “the *Parias*” (De La Crequinière 1705, 70).¹

Again, this parallel between the religion of India and that of the Jews should not be mistaken for a simple mapping of the unfamiliar onto the familiar, by opening up “the possibility of comparing the religion of the gentiles of India to more familiar religions, using the Jews as a point of passage” (Subrahmanyam 2010, 201). This kind of explanation ignores and trivializes something much more fundamental: the early modern Christian understanding of the ancient nation of Israel described in the Old Testament functioned as the framework for making sense of the people of India and provided terms of description that would remain central to future European accounts of India, its religion, and its social structure.

¹ These views on the conformity between the customs of the Jews and those of the Indians would soon spread widely across the educated classes of Europe. De la Crequinière’s text was included as a section on Indian religion in the bestseller compilation *Cérémonies et coutumes religieuses de tous les peuples du monde* (1723–43), which was translated, pirated, and imitated across Western Europe (Hunt et al. 2010).

Without invoking any explicit analogy, the authors deployed concepts that transformed the religion of the Hindus into a variant of that of the Jews. This becomes clear in the writings of the eighteenth-century East India Company servants. In a work published in 1763, for instance, Robert Orme (1763, 3–4) referred to the plethora of “casts or tribes” among the Indians and suggested that the Brahmins are “the tribe of the priesthood,” whose doctrines are followed implicitly by the whole nation. His colleague Luke Scrafton (1761, 6–7) argued that the custom distinguishing the Indians from the rest of humankind is the division of the natives into tribes. He noted that “the four principal tribes,” namely “the Brahmins, Soldiers, Labourers, and Mechanics” are subdivided “into a multiplicity of inferior distinctions” and claimed that, among each of these tribes, Brahmins have the care of religion allotted to them (Scrafton 1761, 8–9). In what he claimed was an excerpt from “the scriptures of the Gentoos,” John Zephaniah Holwell (1765, 345) wrote about “the holy Tribe of *Bramins*, who were chosen and appointed by *Bramah* himself, to preach *the word of God*, and labor the salvation of the delinquents.” Again and again, the claim was that the Brahmin priesthood possessed the same type of privileges and prerogatives in religion that the Jewish priesthood had known. “The tribe of Brahmins,” Thomas Maurice (1800, 25) noted, “is alone allowed to read the Vedas; and they explain them as they please to the other three tribes, who receive implicitly the interpretation of their priests.”

At times, the reports about “the religion of the Hindus” continued to draw explicit comparisons and present these as salient facts, after already having conceptualized this “religion” as a variant of Judaism. In the introduction to his *Code of Gentoo Laws* (1776) – the first English translation of a *dharmashastra* compilation and an important text of this period – Nathaniel Halhed pointed out the similitude between “the Mosaical and the Hindoo dispensation” and had the following to say about the Brahmins:

Indeed the whole Office, as well as the sacred Preeminence of the Braminical Tribe, is almost an exact Counterpart of that of the Levitical: The Levites were particularly forbidden Wine; so are the Bramins. The Levites were more than others enjoined to avoid the Contact of all

Uncleanness; so are the Bramins. The Levites were to assist the Magistrate's Judgment in difficult Cases; so are the Bramins. (Halhed 1776, lxxiii)

Similarly, writing in late eighteenth-century Bengal, the Baptist missionary William Carey made the following claims in a passage about “the character of the Hindoos”:

One cannot help remarking the similarity there is between many of the practices of the Hindoos and the institutions of the Levitical law. Their ideas of contracting uncleanness by touching a bone, a grave, a dead person, or any unclean animal, are uniformly very much like the precepts of the law respecting these things: for after touching any such thing, they always bathe and change their clothes. The cast also bears some resemblance to the Jewish law, which required the tribes to be kept separate, and not to intermarry, lest they should mar their inheritance The distinction of the Levites from the rest of the people for holy purposes, and the different orders of the Levites, have an affinity to the proper employment of the Brammhans, and to the different classes of that tribe, much more striking than you would imagine. The Brammhans are a tribe entirely separate to the maintenance of learning, and the performance of religious rites: but they are of many different orders, who are all of them attached to the different tribes of Hindoos, and are ranked accordingly in the society of the Brammhans. (Cited in Staughton 1811, 180–81)

The role of the Brahmins in the religion of India was quasi identical to that of the Jewish priesthood then. They had the duty to perform its ceremonies of divine worship and the prerogative to expound the laws of religion. They received privileges such as the special access to the sacred that set them apart from ordinary believers. The Brahmins also shared the concern for purity with the Levites and, like them, had developed a sophisticated system of judging, anticipating, and remedying impurities. Consequently, their many “ablutions” constituted another striking fact related to the Hindu religion, since these practices corresponded to the purification ceremonies of the Levite priests. In the Bible, these practices were founded in the Jewish law revealed by God to Moses; in India, these authors pointed out, “the cast” appeared to play a similar role.

Lawgivers and Outcasts

The figure of Moses was another crucial component of the biblical account of the nation of Israel. He was the deliverer of the Jews from captivity and the prophet to whom God revealed the laws of the covenant at Mount Sinai. In his work *The Hebrew Republic* (2010), Eric Nelson shows that the Old Testament and the Mosaic law played a major role in the political thinking of the seventeenth-century Protestant world. In the wake of the Reformation, European thinkers increasingly came to see the Hebrew Bible “as a set of political laws that God himself had given to the Israelites as their civil sovereign. Moses was now to be understood as a *lawgiver*, as the founder of a *politeia* in the Greek sense.” During this era, the text began to function as the source for understanding the perfect political constitution designed by God (Nelson 2010, 16). The covenant law came to be seen as the foundation or constitution of a new nation headed by God (Elwell and Beitzel 1988, 533–4).

From the late seventeenth century, this conception of Moses as a lawgiver fed into a general theory, which claimed that every civilized nation had its origin in a first legislator who provided it with a legal foundation. In the act of constituting such nations, ancient lawgivers drew upon the sense of divinity implanted in every man to pretend that they had received a divine revelation as to the laws that a people should follow in order to obey God (or the gods). Thus, these lawgivers were (false) variants of Moses: ingenious impostors who had used religion to secure strict obedience to a set of laws that were in fact the *civil laws* of a nation. The success in establishing a nation depended on this merging of civil law with divine injunction (Blount n.d., 3; Bolingbroke 1777, 58; Herbert of Cherbury 1768, 39–40, 92–3; Jacolliot 1880, 224–5; Wilkins 1678, 44).

It is not yet clear to me why such importance was given to the fact that the lawgivers had presented the civil laws of a nation as religious obligations. However, the eighteenth-century European descriptions of India do show how significant this cluster of ideas had become in the attempt to understand alien cultures. Scrafton speculated that the hierarchical

division of people was the invention of an ancient legislator (“*Brumma*”) who left “the Gentoos of India” with a sacred book (the “*Vidam*”) that instituted their religion and introduced rules of pollution and purity. The Hindus consider their customs as part of their religion, he asserted, because these are sanctioned by the divine character of their legislator (Scafton 1761, 8–9). A French nobleman who travelled to India in the same period noted that the civil laws of the Hindus were all maxims of religion, which accounted for the fact that civil law had a stronger hold here than among any other people on earth. The first legislators of the Hindu nation, the ancestors of the Brahmins, had thus firmly instituted the caste order by making it indivisible from religion (Deloche 1971, 372–3). Or as an entry in the *Asiatic Annual Register for 1799* put it:

The laws of the Hindûs are intimately blended with their religion. They believe them to have been promulged by Menu, the son of Brahma, and to have received the sanction of God. The strict observance of them is therefore enjoined as a religious duty, and the smallest breach of them is deemed a glaring impiety. No human power is authorised to alter, much less to annul them. (Anonymous 1800, 5–6.)

Many authors agreed: behind the religion and civilization of the Hindus must have stood an ancient lawgiver who had presented the laws of this nation as divine revelation (Bernier 1671, 125; Holwell 1765, 7, 22; Jones 1796; iii-iv; Lord 1630, 40–41; Martin 1769, 462). This first legislator – initially identified as Brahma and later as Manu – was supposed to have performed a role very similar to that played by Moses as the covenant mediator and lawgiver of the Hebrew nation. By invoking a divine revelation, he had made the customs of the Hindus part of religion and given them a foundation in sacred law; thus, he had founded the Hindu nation.

Once this isomorphism was in place, other aspects of Judaism could help the Europeans to structure their understanding of the foreign culture of India. Again, De La Crequinière (1705, 76) stated explicitly what remained implicit in other descriptions: “The *Indians* have among them such Persons as are *Excommunicate*, as formerly the *Jews* had. He that is *Excommunicate* is said to lose his *Caste*, i.e. he is no more to be

reckon'd as one of the Members of his *Tribe*." This was a reference to the punishment of *herem* or "excommunication" in Judaism, which entailed "the expulsion of a Jew from all aspects of Jewish community life" (Karesh and Hurvitz 2006, 205). By violating the Mosaic law, one could put oneself outside the covenant relationship and, for this reason, be excommunicated (Silva and Tenney 2009, 458). This involved a practical prohibition of all intercourse with society. The meanings of the Hebrew terms used to refer to this practice indicate its impact: "to be excluded or cut off," "banish," "desolation," or "thing of horror" (Ridge 2003, 521). The Talmud not only specified twenty-four offences that could lead to *herem* but also stipulated the distance that members of the Jewish community should keep away from the excommunicates.

Now, as we notice in De la Crequinière's words, the Christian understanding of the Jewish practice of *herem* seems to have played a significant role in the crystallization of another idea that would prove central to the European image of Indian society: the idea that there was a separate class of people among the Hindus, which existed outside of the caste hierarchy and its laws. Already in the mid-seventeenth century, Rogerius (1651, 10–11) discussed "the *Perreaes*" as a separate lineage considered too unworthy by the heathens to belong to their tribes; they existed outside of the four principal tribes of the heathen nation and lived in separate parts of towns and villages. This group was considered impure by the Brahmins and could therefore not use the same water wells or access the temples – sacred places defiled by their presence. Rogerius again related this to the concerns about purity among the Jews and referred the reader to biblical verses from Leviticus and Numbers.

During the eighteenth century, European authors took further steps in what appears to have been a mapping of the idea of a fifth class of "outcasts" onto the institution of excommunication among the Jews. Scrafton, for instance, pointed to a group called "the Hallachores, who I cannot call a tribe, being rather the refuse of all the tribes." These had been excluded from the system established by the ancient legislator because they had violated its laws:

All the different tribes are kept distinct from each other, by insurmountable barriers; they are forbid to intermarry, to cohabit, to eat with each

other, or even to drink out of the same vessel with one of another tribe; and every deviation in these points, subjects them to be reject by their tribe, renders them for ever polluted, and they are thenceforward obliged to herd with the Hallachores. (Scrafton 1761, 8–9)

One of his colleagues in the East India Company similarly noted a fifth group distinct from the four main castes, called “the *Chandalas*,” which consisted of those expelled from all castes. This expulsion was “a punishment inflicted for certain offences.” These people, he wrote, were denied any rank in society, could not enter a temple, and be present at any religious ceremony or serve in any public employment. “Hence the punishment of expulsion, which is supposed in its consequences to extend even to another life, becomes more terrible than that of death” (Craufurd 1790, 124).

These were the first of hundreds of similar descriptions of “the outcasts,” “the casteless,” or “the untouchables” that would be produced in the coming centuries. Nineteenth-century authors continued to describe exclusion from caste in the same way. As before, this took the form of the conviction that there is a separate class of impure people placed outside of the caste system and subject to the greatest abhorrence and vile treatment. There are indications that this continued to build on describing expulsion from caste as the structural equivalent of excommunication among the Jews. In a famous text that functioned as a handbook for the training of East India Company officials for many years, the Abbé Dubois (1817, 29) described the practice as follows:

Expulsion from caste, which is the penalty of those who are guilty of infringing the accustomed rules, or of any other offence which would bring disgrace upon the tribe if it remained unavenged, is in truth an insupportable punishment. It is a kind of civil excommunication, which debars the unhappy object of it from all intercourse whatever with his fellow creatures. He is a man, as it were, dead to the world. He is no longer in the society of men. By losing his caste, the Hindoo is bereft of friends and relations, and often of wife and children, who will rather forsake him than share in his miserable lot. No one dares to eat with him, or even to pour him out a drop of water. If he has marriageable daughters, they are shunned. No other women can be approached by his sons. Wherever he

appears, he is scorned and pointed at as an outcast. If he sink under the grievous curse, his body is suffered to rot upon the place where he dies.

Those who transgress the rules of the institution of caste in India, another missionary wrote, become “the victims of civil and social disabilities, as if already dead” (Roberts 1847, vi). The argument here is not that no such practices of ostracizing people existed in India. Rather, I suggest that the way in which European authors structured their descriptions drew upon a conceptual apparatus that represented these practices as variants of Jewish *herem*. More evidence is needed to substantiate this suggestion, but even the terms of “horror” and “social death” used in such analyses appear to go back to the vocabulary used to characterize this practice among the Jews.

The Factual Structure

The point of this section is not simply that early modern Europe relied on the Bible and its conceptual resources to come to systematic descriptions of Indian culture and society. Others have shown that European scholars drew upon the chronology and ethnology of the Old Testament as a framework for making sense of the diversity of peoples encountered in the human past and foreign parts of the world (Sutcliffe 2003, 58–78; Trautmann 1997). The tentative hypothesis offered here is stronger: *the basic factual structure that is still attributed to “the caste system” is dependent on understanding the Hindu people and culture of India as a variant of the nation and religion of the Jews*, as it was described in the Old Testament and understood by post-Reformation Christendom. Without this background, Europeans could not have characterized the many groups and traditions they encountered in India as one nation consisting of a hierarchy of tribes or castes, founded by a lawgiver, and dominated by the tribe of the priesthood and its privileges and prerogatives.

Today’s textbook discourse about the caste system still presents the Hindus as a people divided into a hierarchy of castes and the Brahmins as the privileged priestly caste. It continues to say that certain groups in

Indian society are the descendants of people originally expelled from their caste as a punishment for violating the laws of the caste system (see Klostermaier 2007, 296–7). In eighteenth-century descriptions, we could still see what would become murky in later writings: such descriptions order a set of phenomena observed in Indian society by describing them as equivalents of practices and institutions in Judaism. The tribe of the priesthood formed the privileged expounders of the Mosaic law. Excommunication was a punishment for the violation of this law, which excluded one from the covenantal relationship with God that constituted the Jewish nation. *Mutatis mutandis*, the Brahmins formed the caste of the priesthood and certain groups in India were “outcasts” permanently excluded from the caste hierarchy – the Hindu lawgiver’s system that had constituted the nation in the name of divine revelation – because they had at one point violated its laws.

The Morals of a Heathen Nation

So far we have ignored the crystallization of the moral dimension in the European discourse about caste. There is a reason for this. When early modern European authors gave factual descriptions of “caste” and “religion” in Indian society, they often expressed negative judgements about “heathen idolatry.” They also condemned some of the customs and practices they discovered in this part of the world. However, it took them much longer to conceptualize the distinct moral structure that would be attributed to the caste system: a social organization that deceives people into following a set of immoral injunctions as moral obligations.

Seventeenth-century travellers discerned many of the practices that later authors would consider as loathsome manifestations of the scheme of caste. Della Valle, for instance, noted that several groups in Indian society avoid touching each other and eating together. They conceive themselves to be polluted by communication with less noble groups and purify themselves “from the defilement by washings and other arrogant Ceremonies.” Significantly, he gave a factual account of these practices without discussing their moral status: he found it “a pretty sight to

behold the great respect which upon this account the ignoble bear to the more noble than themselves, and how upon meeting in the street the ignoble not onely [sic] give place, but dance wildly up and down for fear of rushing against the noble, and polluting them in any measure" (Grey 1892, 80–1). The reference to "arrogant Ceremonies" is the only statement of disapproval in this passage. Again this derived from the description of Indian religion as a variant of Judaism: a religion of external ceremonies wrongly believed to be pleasing to God.

That this statement did not involve a general moral disapproval of caste-related practices is clear from Della Valle's account of "a strange Custom," which he said sprang from the different tribes' averseness to communicate with each other and which he was "delighted not only to see but also sometimes out of gallantry to imitate in conversation." This custom, which he baptized "*drinking in the Air*," is that of drinking from a vessel without touching it with the lips (ibid., 81–2). This educated Italian observed the very same practices that would later inspire the strongest moral condemnations of the caste system but took a morally neutral stance towards them (ibid., 83–4). Similarly, the Calvinist cleric Rogerius gave neutral accounts of the relevant practices of the Brahmins and of the division of the heathen nation of India into four tribes and a separate class of impure people.

The Power of the Priesthood

Naturally, moral judgements were not absent from the European accounts of Indian society during the seventeenth and eighteenth centuries. From a Christian perspective, a society corrupted by false religion and devil worship could not but harbour many immoral practices. Once the Brahmins had been identified as the priests of the local brand of heathen religion, they became the object of many a moral diatribe. From the seventeenth century, European authors of all stripes and colours began to accuse the Brahmanical priesthood of establishing the hierarchy of castes in its own interest.

In De La Crequinière's text, we note how closely related this was to his understanding of the Indian religion as a duplicate of that of the

Jews. He left no doubt that both nations shared the miserable condition of enslavement to a tyranny of priests and laws:

First, Both of them liv'd in hard Bondage, to which they were so much the more subject, because they lov'd it, and even ador'd their Captivity; I mean that of the Law, which was the hardest Slavery. . . . [T]hey are only *Machines*, which are mov'd by their *Priests*; who inspire them either with Boldness or Fear, according as they assure them of gaining or losing a Battel. They Fight sometimes in Defence of their Religion with great Obstinacy, which being founded upon some Promise of their *Diviners*, cannot proceed but from a Furious Rage: And these Miserable Wretches do not perceive, that they do but strengthen their Fetters, and increase the weight of their Chains, while they give the *Priests* occasion, by their Victories, to confirm the *Law*, or rather their own *Tyranny*. (La Crequinière 1705, 136–7)

Robert Orme wrote that the “influence of priestcraft over superstition is no where so visible as in India” and noted that the Brahmins derived many temporal advantages from their spiritual authority (Orme 1753, 432 and, 1763, 3–4). Another East India Company servant, Georg Forster, wrote the following about the “*Shastre*,” a text he identified as a commentary on the *Vedas*:

From the Shastre proceed those preposterous and irreconcilably [sic] superstitious ceremonies which have been dragged by their doctors into the Hindoo system of worship; all of them tending to shackle the vulgar mind, and produce in it a slavish reverence for the tribe of Bramins. The privilege of reading the Baidas and expounding its texts is only allowed to them, and prohibited under severe penalties from the inspection of the other casts. By the sole investment of this singular authority, the priest is left at liberty to explain the original doctrine as may be the most conducive in consolidating the power and promoting the interests of his order. (Forster 1785, 23–4)

In such observations, we witness the emergence of a dimension that would be central to the future conception of the caste system: under the guise of religion, the Brahmin priesthood had represented certain

ceremonies as religious duties and thus enslaved the Hindu believers to a tyranny of law.

This account was built around two inter-related clusters of ideas from the intra-Christian debates that had taken place in Europe during the preceding centuries. The first is the critique of Judaism as a religion of bondage to law and ceremony. This originated in the view that Christianity and its new covenant of freedom and grace had superseded the old covenant of law that formed the core of Judaism. Certain passages in the New Testament indicated that the coming of Christ had abrogated the Mosaic law or at least many of its elements. The Gospel, Christian theologians argued, had made all kinds of restrictions and rules of the nation of Israel's covenant with God superfluous to religion. Such customs and ceremonies were now indifferent to the worship of God, for His revelation in Jesus Christ had brought all nations and races together into one people – irrespective of language, custom, and external ceremonial. However, this account continued, the stubborn Jews continued to take the Law literally and practice empty ceremonies; they could not see that Christianity had supplanted Judaism, that “the New Testament” made void “the Old Testament” (Falk 1992, 1–100; Hubbard 1996, 961). Since the power and privileges of the Jewish priesthood depended on the belief in the old covenant, it kept in place the bondage of law.

Second, these accounts of the Brahmin priesthood also derived from the Protestant Reformation's attack against the Roman-Catholic Church. What had started out as a rejection of the authority of the papacy and its clerical hierarchy would soon give rise to a more general critique of “the religion of the priest.” This went hand in hand with the above ideas about Judaism: one of the popular tropes among Protestant authors was to liken the “popery” of the Church to the rules and rites of rabbinic Judaism (Sutcliffe 2003, 85–6). In fact, these characterizations transformed both Catholicism and Judaism into negations of the norms of Protestant Christianity: the latter stood for Christian liberty and inner spiritual faith; the former embodied clerical tyranny and servitude to external ceremonial and laws. This contrast then served as a general template for conceptualizing “false religion” or, in secular sounding terms, “organized religion”: it was a tyranny of laws and ceremonies

imposed by a priesthood that used the name of God to claim religious authority (see Balagangadhara 1994; De Roover 2015, 169–233; Gelders and Derde 2003; Gelders 2009b).

By the eighteenth century, these two clusters of ideas appear to have become so generic and widespread that they could constitute the conceptual background for the common European accounts of Indian culture. The description of the Brahmins as a priesthood with absolute dominion over the minds of the Hindu nation would soon spread widely across Western Europe. It appeared in popular texts like the gazetteers, geographical dictionaries, and encyclopaedias of this age and gradually ensconced itself in the educated public's image of India.²

Moral Ambiguity

Nevertheless, the account of caste *as an immoral social system* had not yet crystallized into a stable picture in this era. For Scrafton (1761, 8–9), the injustice of the excommunication of certain people from social life was *an introduction into* the system of the Hindu lawgiver rather than a core characteristic. A reviewer of a book that accused the Brahminical system and its division of castes of being “more injurious to morality than any other ever invented by the craft of designing men” argued that this thesis was completely falsified by the centuries-long flourishing of the Hindu people and by its awareness of the beauties of moral sentiment. He added: “As to the epithets of ‘*crafty Brahman, cunning Brahman, mean Brahman, cheating Brahman, &c. &c.*’ which our author so profusely bestows, they are suitable enough to the idle prating of a youth on his first arrival in India, but are unworthy of a grave doctor, who aims at a

² In the Dutch Republic, France, and Britain, this is seen in popular texts like Bernard and Picart's *Religious Ceremonies of the World* (Hunt et al. 2010). In Britain, we find this image in the entry “*Hindoostan, or India*” in a series of popular Gazetteers or Geographical Dictionaries of this age, which largely reproduced Scrafton's account and which saw dozens of editions and imitations in the following decades. See the entry “*Hindoostan, or India*,” in the seventeenth edition of Brookes *General Gazetteer* (1820); see the similar or quasi-identical entries in Guthrie 1782, 546; Landmann 1835; Marshall 1840, 377; Walker 1798).

place amongst the investigators of Asiatic history and science” (Anonymous 1803, 29).

Some of the most influential texts of this period showed ambiguous attitudes towards the moral status of caste in India. For instance, in his translation of the text he called the “*Code of Gentoo Law*,” Halhed (1776, xlviii–xlix) commented on the preliminary discourse which he said had been written by the Brahmins: “Nothing can be more remote from a superstitious Adherence to their own domestic Prejudices, or more truly elevated above the mean and selfish Principles of Priestcraft, than the genuine Dignity of Sentiment that breathes through this little Performance.” Surprisingly, this was the very preface where the hierarchy of the four *varnas* was explained. “These four great Tribes,” Halhed (1776, xlix) continued, “comprehend the first grand Divisions of a well-regulated State.” Things were no different in the case of the famous Orientalist William Jones and his translation of Manu’s “code of law.” While he disparaged this code as “a system of despotism and priestcraft, both indeed limited by law, but artfully conspiring to give mutual support, though with mutual checks,” he also wrote that it possessed “a spirit of sublime devotion, benevolence, and tenderness to all sentient creatures” (Forbes 1805, 28–9). In other words, the claims about the supremacy of the Brahmin priesthood could still go together with ambiguous moral assessments of other dimensions of caste.

This ambiguity was not limited to Orientalists but extended to the practices and reflections of Christian missionaries. Many viewed the social distinctions of caste as a phenomenon in Indian society that led to unfortunate forms of discrimination. They admitted that such behaviour would need remedying in time and had no doubts about the fact that the sacerdotal tyranny of the Brahmins deserved destruction. However, these missionaries did not regard caste distinctions and practices as parts of an immoral and idolatrous system irreconcilable with Christianity. In fact, they accommodated many such practices in the local Christian communities and churches. Thus, the earliest Lutheran missionary to India, Bartholomeus Ziegenbalg of the Tranquebar Mission in present-day Tamil Nadu, allowed converts from different castes to sit in separate divisions in the church and even to separately go for communion at the Lord’s table. Similarly, the most successful

Protestant missionary of eighteenth-century India, Christian Friedrich Schwarz, tolerated caste distinctions and never denounced them as unacceptable (see Kaye 1859, 350–7).

As John Kaye recounts in his historical narrative of Christianity in India, this stance survived well into the nineteenth century. Consider, for instance, the weighty questions raised by a prominent church official, Reginald Heber, the second Bishop of the Anglican Diocese of Calcutta:

Is there no such thing, he asked himself, as Caste in Europe? Is there no such thing as Caste in America? Do not the high and the low sit apart in our English churches? Do not our well-dressed high-caste folks go up first to the altar to communicate? Do high and low sit down to meat together – do their children attend the same schools? Are there no pariahs amongst us? In other civilized countries, is there not a prevailing sense of Caste, apart from all associations of worldly distinction? (Kaye 1859, 355)

Certainly, the Bishop argued, it is a Christian principle that all men are equal in the sight of God, but it is equally certain they are not equal in the sight of Man. Social distinctions exist in all societies, he added, and it is a fair presumption to say that God never intended all men to be equal. Hence, caste should be tolerated as a type of social distinction similar to those that exist elsewhere (*ibid.*).

Generally, the eighteenth-century accounts present us with many elements of the discourse about the caste system that would become dominant in later centuries. They suggest that the Hindu religion represents the civil laws of the Hindus as products of divine revelation. Feigning such a revelation, the ancient Hindu legislator wrote these rules into his sacred code of law. As the tribe of the priesthood, the Brahmins enforce this system and expound its sacred scriptures and laws, which grant them many privileges and set them apart from other Hindus. Now, if so many recognizable elements of the dominant discourse about the caste system were already present, the question “*what was missing?*” becomes all the more pertinent. That is, which other elements were still needed that would allow for the emergence of the dominant picture of caste as an immoral social system – an institution that perversely renders immorality into a duty?

The Evil of Caste

In the first decades of the nineteenth century, a series of works appeared that left no doubt as to the immorality of the caste system. In his observations on the state of Indian society delivered to the British Parliament, the East India Company chairman Charles Grant pointed out the following: “Despotism is not only the principle of the government of Hindostan, but *an original, fundamental, and irreversible principle in the very frame of society*” (Grant 1813, 44; emphasis added). How so? Well, the Hindu law rests entirely on the fundamental position “that certain classes or races of the society are in their elementary principles, in the matter from which they were formed, absolutely of a higher nature, of a superior order in the scale of being, to certain other classes.”

Now the evils that flow from such an arrangement, are infinite. Other modes of despotism lead in their very excess and abuse to a remedy, but here the chain of servitude is indissoluble and eternal. Though the highest orders be guilty of the most flagitious wickedness, pervert the use of power, become weak, arrogant and oppressive, *the frame of society can suffer no change; that order must still continue in the enjoyment and exercise of all its vast privileges and prerogatives*. The lowest rank, on the contrary, is doomed to perpetual abasement and unlimited subjection. It has no relief against *the most oppressive and insulting tyranny*, no hope of ever escaping from its sufferings. (ibid.; emphasis added)

Under the fatal influence of this abominable system, William Ward agreed, the members of all four varnas have become inept and miserable. The Hindu system of caste, he added, is wholly the work of the Brahmins, who enslaved all other groups. “*The rules of the shastras respecting the shoodrus are so unjust and inhuman*, that every benevolent person must feel the greatest indignation at the Hindoo lawgivers, and rejoice that Providence has placed so great a portion of this people under the equitable laws of the British Government” (Ward 1822, 91–2; emphasis added). This system also had horrible consequences: “But not only is the cast contrary to every principle of justice and policy; it is repugnant to every feeling of benevolence . . . In short, the cast

murders all the social and benevolent feelings; and shuts up the heart of man against man in a manner unknown even amongst the most savage tribes” (ibid., 145–6).

There is no need to multiply similar quotations to note that a shift occurred in these writings. It was considered self-evident by these authors that immoral principles are inbuilt into the very frame of Hindu society. “The cast” or the system of caste now counted as an oppressive tyranny opposed to every principle of justice, whose rules compel people to be unjust and inhuman to such an extent that all social and benevolent feelings are killed. In other words, in the eyes of these authors, caste had become an immoral social system (for more illustrations, see Anonymous 1818).

Religious or Not?

Is this shift all that remarkable? Some would situate it in a larger conflict between two groups of British colonials in this era: the Orientalists, relatively sympathetic to Indian culture, and the Anglicists, who argued for its substitution by European education and rational religion (Zastoupil and Moir 1999). Grant was a staunch evangelical and Ward a Baptist missionary; both shared the agenda of convincing the government of the need for allowing the propagation of the Gospel in British India. With this aim in mind, they stressed how terrible the state of society was and how false religion dominated every sphere of life among the Hindus. The evil of caste needed to be destroyed, not only by means of benign rule but also through the dissemination of true religion. In contrast, many other scholars and officials in the same period gave sympathetic accounts of Hindu society and argued against disrupting its religion and customs through missionary activity (for instance, see Stuart 1808).

While there is truth to these claims, they lose sight of a crucial point: it is the conception of the caste system held by these Protestants – and not that of the Orientalists – that survives today in its basic outlines. That is, it is the missionaries who propagated the account of the caste system as an immoral social structure at the core of Hindu religion. It is

they who insisted that this system compelled the Hindus to act by the most unjust and inhuman principles. And it is this step that appears to have constituted the discourse about the immorality of Indian society. Therefore, it is all the more important to find out which new element(s) had caused this shift in the European understanding of caste. Had the missionaries discovered new facts about the structure of Indian society, which revised the views of the earlier Orientalists and other scholars? Had systematic study really laid bare the immoral core of the caste system? Or was this change rooted in a reconfiguration of their own religious views?

To find answers to these questions, we need to turn to a dispute that had emerged among Christian missionaries in seventeenth-century India. The “Malabar rites controversy,” as it was later called, concerned a simple question: did usages like the privilege of certain castes to wear a cotton thread around the torso, carrying a tuft of hair on a shaven head, or applying sandalwood paste to one’s face count as manifestations of religion or merely as civil observances? This dispute had its origins in the work of the Jesuit missionary Roberto De Nobili, who lived on the Malabar coast during the seventeenth century. He had not only adopted the dress and demeanour of an Indian *sannyasin* but also allowed his converts to keep their “national customs, in as far as these contained nothing wrong and referred to merely political or civil usages” (Brucker 1910, 558–62). That is, he did not compel Christian converts to renounce practices such as wearing the markers proper to one’s caste. He refrained from doing so because he viewed these as parts of a civil institution that divided the Indian nation into “four grades of civil functions to which there corresponds a similar gradation in nobility” (De Nobili 2000, 57–62).

Like Della Valle and Rogerius, De Nobili saw the Indians as a nation consisting of distinct clans or tribes ranked according to civic function and nobility. He identified the “*Laus of Manu*” as the authoritative *civil law book* that sanctioned this social organization of the Indian nation. However, he denied that the Brahmins constituted a priesthood. They were wise men with knowledge of the different sciences, he said, who received exceptional respect not because of some special religious status but because of their learning. Consequently, the ranking of citizens and

the privileges of certain groups in Indian society derived from civil status rather than religion (ibid., 63–76).

De Nobili's position on caste-related customs would soon be challenged by other missionaries and this led to tension between him and some officials of the Jesuit Society and the Church in Rome. However, when he put forward arguments and produced evidence, the Jesuit officials were satisfied and the Holy See provisionally decided the question in his favour. In an Apostolic Letter, Pope Gregory XV permitted Indian Christians to continue several of the relevant practices like wearing the sacred thread and performing ritual baths. Again, the decisive factor in these judgements about the customs of caste was the verdict that these were not inextricable parts of the religion of the Indians (Brucker 1910).

Why was this so crucial? The concern about the religious nature of social practices went back all the way to early Christianity. After this religion had become dominant in the Roman Empire, the reach of “pagan idolatry” in everyday life became a crucial question. The worship of false gods was not limited to the cults, the church fathers said, but had tentacles across social life. Any practice could now be examined in terms of its connection to idolatry, from carving statues to attending games. If Christian authorities decided that the practice in question was religious, it became a sinful violation of God's will and one of the devices invented to deceive people into worshipping the false god. In other words, whenever a practice could be connected to false religion in some way or the other, it entered the sphere of the prohibited; converts now had to renounce it (Balagangadhara 2014; Markus 1990, 16, 226).

Early Christianity had thus carved up social life into three spheres: all actions essential to the worship of God were *obligatory*; all those related to idolatry or the worship of false gods were *forbidden*; and everything that remained was *permitted*, since it was indifferent to religion and the worship of God. In the early modern period, the same standard began to determine the missionaries' moral judgements about the practices they encountered among pagan people in exotic parts of the world. If a practice was linked to false religion and idolatry, it could not but be immoral and forbidden; if it was merely civil or indifferent to religion, it was neutral and permitted. In India, this would prove decisive in the

theological dispute about caste practices, which resurfaced again and again from the seventeenth century onwards.

In the early nineteenth century, the same dispute erupted in the south of India. After being consulted by local missionaries, Bishop Heber became involved in the issue of the religious and moral status of caste. On a journey through the south in the 1820s, he noted that several local missionaries had allowed their converts to preserve “very many of their ancient usages, particularly with regard to caste.” “The old school of Missionaries,” he added, “tolerated all this as a merely civil question of pedigree and worldly distinction, and in the hope that, as their converts became more enlightened, such distinctions would die away.” In one case, high-caste Indians had made the unacceptable demand to have a separate cup for the Sacrament. Younger German and English missionaries, however, preached against caste and prevented its practices as much as possible in the arrangement of their schools and congregations. They had gone even further and interfered with ancient practices in marriage ceremonies and domestic festivities, because they denounced all kinds of practices as Satan’s devices. One of the missionaries had “gone so far as, by way of punishment to compel a schoolboy of high caste to drink water from the cup of a Pariah” (Heber 1828, 444–5).

That both parties were at fault was clear to Heber. Still, he considered this question about caste as a major challenge facing the church in India:

The difficulty will be to ascertain how far the feeling of caste is really civil, and not religious, and how far the other practices objected to are really immoral or idolatrous. On these topics I am now busily making inquiry, and hope, in the course of my journey, to come at the truth so nearly as to prevent, at least, any gross scandal, without intrenching [sic] materially on what I conceive the natural liberty of the new convert, to live in all indifferent things in the manner which he himself prefers, and which his ancestors have preferred before him. (ibid., 445–6)

Bishop Heber drew up a series of questions and submitted them to an Indian convert of exceptional intelligence and piety, known as Christian David. In response, David declared that caste was “purely a worldly idea,” among the natives of Southern India, “not connected in their

minds with any notion of true or false religion.” Native converts from the higher castes, he said, avoided contact with low-caste proselytes, not on religious grounds but simply for social reasons. David related this stance to the coarse and indecent language and the less decorous and self-respectful way of life common among low-caste people, which were revolting to high-caste people. He profoundly regretted that young missionaries had begun to argue for the total repudiation of caste and had denounced the older generation of missionaries as “corrupters of the Gospel” for tolerating caste-related customs. After being informed by other European missionaries and Indian converts, Heber eventually concluded that caste – at least as it existed among converts – was an institution of social distinction differing little from the social exclusiveness that existed in Christian societies (Kaye 1859, 352–4).

Even among the missionaries and church officials who took such conciliatory attitudes towards caste, the ambiguity about its religious and moral status remained present: were caste distinctions acceptable only among Christian converts, because they lost their religious significance once the natives left the Hindu fold? Was caste a purely social institution even among the Hindus, very similar to the social distinctions in Europe and America? Or did it instead have religious foundations in Hinduism?

This ambiguity soon gave way to a different stance and story. By the 1850s, so Duncan Forrester shows in his *Caste and Christianity* (1980), a new consensus had crystallized among the Protestant missionaries in India. It was not simply the case that some specific set of customs was religious, they argued, but that the entire system of caste was a “sacred institution” to the Hindus and an integral part of “the whole system of idolatry.” Converts now had to renounce all customs of caste as an expression of their embracing of Christ, for it did not concern a mere civil distinction but an institution to which the Hindus attributed a divine origin. Missionaries began to consider caste as *the* main obstacle to conversion: the system which held the Hindu religion together and protected it from disintegration in the face of the Gospel (Forrester 1980, 23–48). In other words, this Protestant consensus transformed caste into a religious institution. Thus, it was transferred from the sphere of things indifferent to that of false religion, the realm of the prohibited.

Civil Law and Divine Revelation

Let us now formulate a second tentative hypothesis: *caste emerged as an immoral social structure in the European understanding of India, because it came to be seen as a religious institution built around a system of laws that provided the core structure of Hinduism and the foundation of the Hindu nation.* This shift allowed for the birth of the conceptual entity that we call “the caste system” by bringing together several clusters of ideas into one integral whole: the claims about the nation of the Hindus as a variant of that of the Jews; the conception of the Brahmin priesthood and its practices as an instance of false religion similar to the institutions of Catholicism and Judaism; the idea that such institutions deceived the believers into following a set of human fabrications as though these were divine commandments; the claim that the Hindu religion revolved around external ceremonies and concerns about purity and pollution. By integrating these elements into a coherent entity called “the caste system,” this shift provided order and stability to the European understanding of Indian culture and society.

The early nineteenth-century sources show that elements of the earlier descriptions of caste now coalesced into a picture of one single system of which the law and religion of the Hindus were held to be mutually dependent parts. Charles Grant explained this system to the British politicians and administrators:

*The Hindoo law stands upon the same authority as the Hindoo religion; both are parts of one system, which they believe to have been divinely revealed. That law is regarded by them therefore with a superstitious veneration, which institutions avowedly of human origin do not produce; so that even under a foreign yoke, which in various particulars superseded its injunctions, it still maintained its credit . . . Nothing is more plain, than that *this whole fabric* is the work of a crafty and imperious priesthood, who feigned a divine revelation and appointment, to invest their own order, in perpetuity, with the most absolute empire over the civil state of the Hindoos, as well as over their minds. (Grant 1813, 43–5; emphasis added)*

This passage brings together several elements. The charge that the Hindu priesthood feigned a divine revelation and appointment reflects the earlier

notion that the Brahmins are like the Levites, the tribe of priests divinely appointed by God's revelation of the covenant. This comes together with the conception of false religion as the fabrication of clerics who usurped religious authority in order to pursue worldly interest. As crafty priests, the Brahmins invented "the whole fabric of caste" to invest in their own order absolute power over all believers. The Hindus mistook this system for a religious institution of divine origin because of the ploy that *both its religious beliefs and its civil laws* are divinely revealed. While the ancient legislator does not appear in this particular passage, Grant (1813, 56) made it clear elsewhere that Hindu customs (like "widow-burning") are presented as injunctions from a lawgiver believed to be divine and are therefore "admitted to have the force of a religious obligation." It is this fabrication of divine origin that enables the priesthood to dominate *the civil state of the Hindus* and not just their religious life, by deceitfully imposing civil laws *as though these constitute religious obligations*. Because of the superstitious veneration that follows from this, the system of caste and its injunctions could survive foreign rule in India, even when the rulers rejected some of these injunctions.

In brief, this shift brought these elements together to form a coherent conception of "the scheme of caste": a system that had merged civil law and religion into one whole by claiming a divine origin for itself. Protestant missionaries from a variety of denominations now began to argue that the inveterate distinction of caste is incorporated with the "whole religious economy" of the Hindus (Harvard 1823, 183), that the institution of caste is not "a mere political expedient" but "belongs to the religion of Hindostan" (Adam 1824, 27), that "*caste* is not a *civil* but a *sacred* institution, – not an ordinance of *human* but of *divine* appointment" (Duff 1840, 123–4), that "Caste is not merely a political or social distinction, as many have strangely declared, but that it is, in the view of the Hindu, most *sacred* in its claims," and "that it is not a mere *civil* distinction, but emphatically *religious*" (Roberts 1847, 16, v). The Madras Missionary Conference perhaps put it most clearly in its declaration of 1850, which concluded decades of dispute about the status of caste:

Caste, which is a distinction among the Hindoos, founded upon supposed birth-purity and impurity, *is in its nature essentially a religious institution,*

and not a mere civil distinction. The Institutes of Menu and other Shastras regard the division of the people into four castes, as of Divine appointment. *We find, also, that stringent laws were enacted for upholding this important part of the Hindoo religion. Future rewards are decreed to those who retain it, and future punishments to those who violate it.* The Hindoos of the present day believe, that the preservation – or loss of caste deeply affects their future destiny. (Cited in Meigs 1854, 471; emphasis added)

Here, we see once again how the conclusion that caste was a religious institution implied that it revolved around a system of stringent laws falsely believed to be of “divine origin.” This entire system decreed future rewards to those who obey its rules and future punishment to those who do not. Thus, the Protestants’ postulation of a religious-cum-civil system of laws at the heart of Hindu society allowed the elements of earlier European descriptions of caste to coalesce into one coherent *Gestalt*.

Caste and Hinduism

Throughout the nineteenth century, missionaries and other authors stated that caste was not only inseparably connected to Hinduism but also formed its core structure. This claim addressed a persistent problem in the Western understanding of Indian culture and society: the religion of the Hindus seemed to be an incoherent amalgamation of all kinds of doctrines, traditions, practices, texts, myths, and groups, without any shared creed, sacred text, or religious authority. How could it then be a religion at all?³

Scholars did not raise this question as a challenge to the dominant European understanding of Indian culture and society. In fact, they did not even contemplate the possibility that the incoherent and chaotic appearance of “Hinduism” was a problem internal to the structure of

³ Such comments about the chaotic nature of Hinduism would return again and again from the eighteenth to the twentieth century: for instance, see Harcourt 1924, 28; Lyall 1884, 1–2; Orme 1805, 437; Strachey 1911, 315–7; Whitehead 1924, 4; Wilson 1862, 1.

their experience and theorizing. Closer studies of Indian society kept generating anomalies that put into disarray the account of the “heathen” people of India as a nation of castes united by a common religion. However, instead of realizing that these were problems internal to the European account of Hinduism, Western scholars engaged in a protective move: they externalized this disorder as a characteristic property of the religion in question. Over the decades, they began to characterize Hinduism as “a chaos,” “a jungle,” or a “banyan tree,” which nevertheless formed the religion of the Hindus (see De Roover and Claerhout 2010).

Of course, this generated another question. How could a religion whose main characteristic appeared to be disorder survive and retain its followers? Surely, it would have to fall apart. Yet, Hinduism had survived for centuries if not millennia. Given its apparent lack of structure, what kept this religion together and prevented it from falling apart? This issue was of particular importance to Christian missionaries in India, since they professed the aim of breaking the hold of false religion. Consider a discussion on caste that occurred among the missionaries and converts of the Free Church of Scotland in Madras in November 1845. The diversity of groups in Indian society, they stated, had made it seem as though the Indian people did not have one religion but was divided into “so many religious sects and subdivisions, which divide families and tribes from one another.” Yet there was unity behind this diversity. Indeed, the Hindus did not worship one God or one common Lord, but “on the other hand, Caste is a thing which is common and sacred to them all” (in Roberts 1847, 121–2). In other words, in caste, the missionaries claimed to have found the common system that held the nation and religion of the Hindus together.

The discussion in Madras had started by putting the following question to native converts: “*Is Caste inseparably connected with Hinduism, or is it not?*” The neophytes dutifully gave the answers the missionaries had taught them. Again and again, it was repeated that caste is not simply connected to Hinduism but that “Caste is nothing but Hinduism itself” (in Roberts 1847, 121). One convert said that both the sacred texts and the everyday notions of caste that a Hindu receives from his parents left no doubt “that *Caste* and *religion* are synonymous.” This unity between

caste and religion derived from the fact that the institutes of Manu and other standards of the Hindu religion claim that both “have sprung from one and the same source, *the mind of the Supreme Being*” (in Roberts 1847, 66–8).

Another convert looked at “the facts.” From the fact that caste is considered divine in its origin and that its main aim is to teach how “to regulate the conduct towards the gods, with reference to future births and final absorption,” he inferred the following conclusion: “Caste is now so inseparably part of the Hindu system, that any attempt to sever it from what is considered religious, would be to render Hinduism, as it now exists, a mass of confusion” (in Roberts 1847, 80–81). Yet another witness summed things up in a metaphor:

Who ever thought of separating Caste from Hinduism, or Hinduism from Caste? They are so joined together, that the life of the one depends on the life of the other, and the death of the one on the death of the other. You have all seen on the hedges a plant so twisted round another as to be wholly supported by it, so that both seemed to be one tree. If you separate the one from the other, it will be like a reed shaken with the wind. So, if you separate Caste from Hinduism, it will come to nothing. (In Roberts 1847, 110)

The followers of Hinduism had nothing in common except the system of caste; therefore, this religion would dissolve without this core structure. This “discovery” instantiated the same kind of cognitive move that European scholars of Indian culture had engaged in before. The idea that caste was the sacred institution at the heart of Hindu religion had brought *internal order* to the European experience and understanding of Indian culture. However, this was again *externalized as though it concerned a structural property of the alleged religion and social system of the Hindus*.

In the dominant discourse, caste had now become the structure that held Hinduism together. As one author put it: because of the divine origin that the Hindus attributed to caste, this system could form the cement of the fabric of the Hindu religion, which pervaded and closely bound the whole (Duff 1840, 616–7). In other words, once Europeans

had attributed this status to caste, this enabled them to see “the Hindu religion” and “its caste system” as a coherent whole. Seemingly, they could now fit any factual finding or textual passage into this well-cemented building, which held together *their* understanding and experience of Indian society.

The Moral Structure

How could the Protestants’ conclusion that caste was *religious* have this kind of impact? I do not have any conclusive answers to give here, but we can take some tentative steps. From a Christian perspective, the distinction between a religious and a civil institution revolves around the fact that the former has to be of divine origin and embody the purpose of God, whereas the latter is merely a human creation. Thus, Catholicism views the Church as a religious institution, simultaneously divine and human. Even though manned by human beings, the Church has to represent the purpose of God on earth; therefore, its laws count as religious obligations.⁴ Similarly, the Jews hold that the Mosaic law is a revelation from God: the rules of the covenant state His expectations towards the nation of Israel and these include regulations as to the institutions and practices of everyday life.

These claims about religious institutions and the distinction between religious and civil law had known a long history in Christianity but they gained particular importance during the Protestant Reformation. Reformers like Luther and Calvin argued that the authority of human legal institutions could only be civil or political and never religious. Canon law, according to them, was a system of human law falsely presented as religious by claiming divine sanction. The Church and its clerical hierarchy did not represent God’s purpose on earth but it was a purely human institution that *falsely* presents itself as religious and

⁴ *Catechism of the Catholic Church*, § 760, § 778;

URL: < http://www.vatican.va/archive/ENG0015/_P27.HTM>; consulted on February 11, 2015.

imposes its fabrications onto the believers in the name of God's will (see De Roover 2015, 86–137).

The Reformation also reinforced a similar argument about Judaism. While God had indeed revealed himself to Moses at Mount Sinai, Christian theologians argued, the first covenant of law had been abrogated by the Gospel and its covenant of grace and freedom. This implied that the continued existence of rabbinic Judaism involves a similar deception as that inflicted by the papacy. To trick the believers into a human bondage of law and external ceremonies, the Jewish priesthood continued to present the laws and customs of the nation of Israel as divine commandments, even though they had lost this religious status and become purely civil or political in nature.

From the Protestant perspective, if caste was an institution of false religion, it would have to function in a similar way. That is, the Hindu religion would enforce the civil laws of caste by falsely claiming that the system is rooted in divine revelation. This ploy gave caste its deceptive strength and allowed the system to reproduce itself in spite of the immorality of its injunctions. The perpetrators of the ploy could not but be a class of cunning clerics. They deceived the Hindus into believing that strict obedience to the laws of caste is essential to religion and to the rewards of this and the future life. In this picture of Hinduism, divine worship involves abiding by the religious obligations of caste, while violating these obligations results in excommunication from the system of Hindu society (and inferior rebirth for one's soul). What makes the Hindus so blind to the iniquity of the laws of caste, according to the same picture, is the superstitious awe continuously reinforced by the Brahmins to deceive them into the delusion that caste laws constitute religious obligations. (Of course, this raises the question as to where these Brahmins get this extraordinary capacity to deceive ordinary believers.)

In this nineteenth-century account of caste and Hinduism, we see the original outlines of the peculiar moral structure that continues to be attributed to the caste system unto this day. Together, caste and Hinduism form a religious system that misleads the Hindus into following a set of immoral principles as the requirements of morality. In other words, the entire structure of today's dominant conception of "the caste

system” derives from a Protestant-Christian account, which basically describes caste as an institution of false religion that deceptively merges civil laws with religious obligations.

If we were to discard the overtly biblical elements from the nineteenth-century missionary descriptions of Hinduism and caste, it would become difficult to distinguish them from the contemporary moral discourse. In its outlines, the basic message of anti-caste academics and activists corresponds largely to that propagated by Christian critics more than two hundred years ago. Others have noted how the Christian polemics against Judaism functioned as conceptual resources for the British conceptions of Hindu religion and society (Yelle 2013, 137–60). However, they ignore how these conceptual resources determined the basic immoral structure still attributed to the caste system today.

First, today’s critics chastise the caste system for providing people with certain privileges and occupations according to the caste of their birth and thus imprisoning individuals in the social position in which they are born, no matter how talented they may be. Second, the system is accused of giving some castes a sense of inherent privilege and entitling them to control, discriminate, and humiliate these others. Third, it supposedly draws on religion to divide the Indian people into distinct groups separated by insurmountable barriers. Fourth, it dehumanizes the untouchable castes or Dalits by excluding them from all civilized social life and treating them like animals or worse. Together, these aspects are said to make the caste system “one of the most brutal modes of hierarchical social organisation that human society has known” (Roy 2014).⁵

The original religious core driving such judgements becomes visible when we remember that they were aimed not only at Hinduism but also at Catholicism and Judaism. That is, these criticisms of “the caste

⁵ For some recent instances of this moral discourse about the caste system, see Guru (2016), Jadhav (2005), Teltumbde (2015), and the debates in a Subcommittee of the United States Congress: *India’s Unfinished Agenda: Equality and Justice for 200 Million Victims of the Caste System*, Hearing before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations House of Representatives, One Hundred Ninth Congress, First Session (October 6, 2005), 10–11, 14, 16–18, 29–31.

system” result from conceptualizing it as a structural variant of the institutions of the latter two religions. In fact, most of the major criticisms of caste can be traced back to a contrast made by Protestant Christianity between the state of society under true religion and that of societies under the rule of “false religion” and its “bondage of law.” Unlike its corrupt rivals, Protestants said, true religion does not allow for divinely appointed classes of people with certain privileges supposedly granted to them by God. Under the Gospel, distinctions of rank and all other human institutions and laws *are merely civil and never religious*. Hence, any person could rise (or descend) from one rank to another, regardless the accidents of birth. In contrast, corrupt religion cuts up the community of believers into classes of people by birth and divine appointment and thus creates insurmountable barriers (Anonymous 1818; Roberts 1847, 4–5).

Conclusion

What is today presented as an analysis based on human rights and principles of equality started out very differently. The entire discourse relied on clusters of theological background ideas about the relationship between Christianity and Judaism, the New and the Old Testament, the nature of priesthood, the separation of civil law from religious obligation, and the status of social distinctions in relation to religion. In turn, these clusters were embedded in a much larger framework that had emerged out of the Reformation and its interpretations of the Bible. More than being a set of explicit ideas only, this framework consists of implicit conceptual resources that have allowed Europeans to make sense of the popular descriptions about religion and caste in India.

How is all of this possible? Most of today’s authors writing about the caste system know next to nothing about these centuries-old intra-Christian debates. Yet, academics, activists, and journalists keep drawing upon descriptions that derive from concerns and concepts internal to these debates. They would not accept that the Hindu people is a variant of the biblical nation of Israel, that Christianity superseded Judaism, or

that the Brahmins are a hybrid of the Jewish tribe of the priesthood and the Catholic clergy. Probably, many of them would not even agree that the caste system is a religious institution that deceives people into embracing human-made laws as though these are divine commandments. Still, their conceptual vocabulary indicates that they implicitly accept the truth of such theological claims.

The apparent implausibility of this conclusion indicates that much more research is needed to strengthen this hypothesis about the emergence of the conceptual entity called “the caste system.” Yet it also indicates how promising this research is: however tentative and incomplete the two proposed hypotheses may be, they succeed at generating new questions that need answering.

Consider the fact that the early modern Christian conceptions of the biblical nation of Israel turn out to be central to the dominant European descriptions of the people and culture of India. How is this possible? Two sub-questions are involved here. The first concerns the ubiquity of this interpretation of the Old Testament among the educated classes of early modern Europe. Travellers like Della Valle, Orientalists like De la Crequinière and Halhed, missionaries like De Nobili, Rogerius, and Ward, and colonial officials like Orme, Scafton, and Grant – all of them drew upon this account when they described the religion and social life of India. This means that the Christian conception of the ancient Jews must have been part and parcel of their cognitive world. Its terms of description were readily available to them as conceptual resources that helped them to understand other cultures. From recent studies, we know that certain ideas about the biblical nation of Israel had become widely present in the political thinking of seventeenth-century Europe (Nelson 2010; Sutcliffe 2003). But how exactly could such ideas about the Old Testament Jews become central to the cognitive world of such different types of Europeans?

The second question concerns the fact that modern Europeans viewed the “heathens” of India as a variant of this ancient nation of Israel. How could it make sense to see an alien people found on the Indian sub-continent as a variant of the Jews who had lived in the Middle East more than 1,500 years before? Facile explanations are at hand here. Some scholars, for instance, may insist that certain aspects of Hinduism indeed

look similar to Judaism. But then such similarities are apparent only because a particular background framework shapes the available descriptions of both “religions.” So the question becomes: how did this background framework give shape to the dominant discourse about Hinduism and the caste system? Here, we need a closer study of the different elements in the emergence of the early modern European account of the Old Testament Jews. We also need to examine their transformation into the conceptual resources used by European culture to make sense of alien peoples and societies.

There are more implications. The basic nineteenth-century description of the caste system integrated earlier theological ideas into one coherent whole: a system that merged civil and religious law by ascribing a divine origin to both. Initially, this diagnosis was specific to Protestant analyses but it soon appeared in the most popular geographical and historical works of Western Europe, written by authors with a variety of religious and philosophical backgrounds. Without even referring to the biblical account of the nation of Israel or the Protestant objections to the Catholic Church, these authors told stories about India that presupposed elements from both theological accounts. What cognitive resources must have been present among their readership in Europe to allow for this? How could the concern about the relationship between religious and civil law resonate among so many authors and their readers? What does this tell us about the dynamics shaping the development of European societies during this era? Since today’s Western scholars and their readers continue to buy into the same story about “Hinduism” and “the caste system,” the scope of this question is even wider. How is it possible that people still continue to reproduce an inherently implausible account of Indian society, even though they are ignorant of the Christian concerns and conceptual schemes that held together this account?

The situation becomes all the more puzzling when we turn to the Indian debates on the caste system. These also presuppose the existence of a social organization that deceives the Hindus into living by a set of immoral injunctions disguised as moral obligations. Thus, they also rely on elements from the Protestant consensus about “the Hindu system.” Yet, Indian academics and activists do not belong to a culture constituted by centuries of Christian religious dynamics. They cannot possibly

share the background framework that allowed the Western educated public to make sense of such descriptions of Indian culture. For instance, the concepts and concerns related to the relationship between Christianity and Judaism or that between Protestantism and Catholicism must be alien here. Nonetheless, educated Indians reproduce “critical” descriptions that emerged from mapping “the caste system” onto these concepts and concerns. This has been going on for over two centuries and even led to laws enacted by the Indian authorities. Did this conception of the caste system then really find roots in the cognitive world of a very different culture? How could it do so? That is, how are these descriptions of caste understood by the Indian intelligentsia, given that the conceptual resources needed to make sense of them must be missing here?

These are all questions for future research. They are significant not only as theoretical concerns but also because of their practical consequences. The moral discourse about caste was part of an attempt by Christian missionaries and colonial officials to remedy situations in Indian society, which they perceived as unjust and inhumane. When Indians adopted this discourse, this was often part of their effort to address problems of injustice and oppression in their society. Today, we are in the privileged position of pointing out the flaws in these past attempts. We realize that the dominant conceptual language does not help us in formulating the problems of Indian society, let alone in solving them. However, with the privilege comes a responsibility: that of identifying the flaws in the current conception of the caste system *in such a way* that future generations will be able to go beyond these and develop better descriptions and diagnoses of these problems.

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7

The Aryans and the Ancient System of Caste

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Over the last century or two, the dominant accounts of the caste system have looked for its roots in the ancient history of India. The story is told about the rise of this social system that began in the era when an alien people called the Aryans is supposed to have invaded the subcontinent. The standard version of this history tells us that people called “the Aryans” invaded India around 1500 BC, conquered the indigenous Dravidians and imposed their culture, language and religion on the latter. They are said to have brought the Vedic religion, which later developed into Hinduism and instituted the religiously founded caste system. In this account, the idea of the caste system as an intrinsic part of Hinduism was not only reinforced

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but also the idea of an institutionalized form of discrimination along racial lines was also added to it. The account about the Aryan invasion originated in the nineteenth century European descriptions of India and has generally been accepted as a fact about India for the last 200 years. Even though this standard account has met with severe criticisms (as we will see further), most contemporary textbooks on Indian history still begin with a section on the Aryans and their invasion (or immigration) into India. Likewise, standard descriptions of the caste system still include the idea of a segregation between the Aryans and the Dravidians.

Given the centrality of the Aryans in the descriptions of the caste system, one would expect there to be a vast amount of literature on how they invaded India, how they conquered the indigenous population, how they established their authority, how the acculturation process took place, how they managed to keep the caste system in place and how they managed to convert the existing population to their religion. Answers to these questions would not only be of interest to historians, but they would give us insight into the core aspects of the Indian culture and, more generally, into aspects of the interaction between different peoples, which result in acculturation or in inducing changes in a culture or even change of one culture into another. If it would turn out that no answers are to be found to these questions, however, a different question arises. In that case we need to understand what makes the account about the Aryan invasion appear plausible enough to be reproduced for more than 200 years.

In order to get an idea about whether or not these questions have been answered in the course of the last 200 years, we will take a look at some recent introductions to Indian culture by authorities in the domain of Indology.

The Aryan Impact on India

In the most recent edition of his book *India*, Stanley Wolpert tells us that “between about 1500 and 1000 BC, Aryan tribes conquered the remaining pre-Aryan *dasas* throughout the Indus Valley and Punjab”. The latter, he says, were “enslaved” by the Aryans (Wolpert 2009, 28). Wolpert does not tell us much about how this happened, except for mentioning some of the weapons and other military equipment

(the horse and chariot) used in this warfare. The *relevance* of the piece on the Aryan conquest of the pre-Aryan *dasas* becomes clear later in the book when Wolpert speaks of the caste system. This system, or the “four-*varna* hierarchy”, he tells us, consists of four groups of which the *shudras* form the lowest rung. The latter he describes as the “original serfs of the three-class Aryan tribal conquerors of North India” who “may well have been *dasas*, pre-Aryan slaves”. “Subsequent expansion of Aryan civilization”, he continues, “brought more ‘primitive’ peoples into the fold, who were so ‘barbaric’ or ‘polluted’ as to be added much beneath the *varna* hierarchy as ‘fifths’ (*panchamas*), later known as Untouchables and now generally called Dalits, meaning oppressed people” (ibid., 112).

While Wolpert maintains that all of this happened, he does not speak about how the Aryan conquest occurred, what allowed for the conquest or even how it was sustained. Let us, therefore, see what follows from the course of events sketched by Wolpert. If what he says is true, we can conclude that: (a) Ancient India knew of at least three groups of people: conquering Aryan tribes, pre-Aryan *dasas* and even “more primitive” peoples. (b) The *dasas* were enslaved by the Aryans. (c) The contemporary *shudras* are the descendants of the *dasa*-serfs of the Aryan conquerors. (d) At the time of the conquest, the latter were organized in a three-class system, which was the bearer of a civilization. (e) The ancestors of the *shudras* did not belong to this Aryan civilization.

The fact that the *dasas* were conquered and enslaved shows that they were in one way or another not strong enough to resist the Aryans – in number, or with regard to military organization, kind of weapons, or otherwise. As Wolpert mentions, the Aryans brought the horse to India and their horse-drawn chariots and their archery (and axes) helped them to defeat all who confronted them. Thus, we can conclude that the weakness of the *dasas* to resist conquest is to be located partially in the absence of such military equipment. But he also mentions another kind of weakness, one that allowed the Aryans to sustain their position without military intervention for millennia: the low level of their civilization. The soon-to-be outcasts, he says, thanked their place outside the system to their “primitive” and “barbaric” status because of which they were placed beneath the four *varna* hierarchy as the “fifths” (*panchamas*) and thus “polluted”. The *shudras*, who are just above them on the social

ladder, are also primitive, barbaric and polluted but only less so than the outcasts. As such Wolpert postulates a link between the level of civilization of a group and its social position *vis-à-vis* other groups in a given society. The image that emerges from this is the following: (a) the newly arrived Aryans had a civilization and could form the first three orders of the newly composed society because of it; (b) the *dasas* were civilizationally less developed (the Indus civilization) and could hence be relegated into an inferior social position; (c) there were primitive people with no civilization to speak of who didn't even get a place in the social system.

Looked at in this way, we can understand what it means for the *shudras* and outcasts to be at the lower rung of the social hierarchy, that is, in what respects they are inferior: they are inferior in their level of civilization, they are less developed, more primitive and polluted. The fact that contemporary *shudras* are still at the lowest rung of the *varna* hierarchy (being only slightly better than the outcasts) shows that they have retained this inferiority until today. It only becomes more blatant in view of the constitutional abolishment of the caste system and the ever-growing number of government policies to improve the position of those groups considered to be at the lowest rung of society: the Scheduled Castes, the Scheduled Tribes and the Other Backward Castes.

That this is how Wolpert sees things is also apparent in his interpretation of the *Ramayana* as a historical record of these conquests and of the life of the Aryans. He says: "The *Ramayana* may be read as an allegory of what Aryans saw as the conquest of 'uncivilized demons' who inhabited southern forests and disturbed the meditations of sadhus seeking enlightenment through yogic concentration." Rama's defeat of Ravana symbolizes the Aryan conquest of non-Aryan demons in Gangetic forests, which "permitted patient sadhus to continue silent yogic meditation" (*ibid.*, 30). Here Wolpert uses the *Ramayana* to depict the pre-Aryan *dasas* as uncivilized demons who disturbed the spiritual work of the sadhus, of whom it is suggested that they were Aryan. The *Ramayana* itself, however, says nowhere that Ravana is uncivilized or that he represents an uncivilized people who are out to disturb the patient and silent people in their civilized quest for spirituality. In fact, Ravana is portrayed as a seeker of spiritual truth himself!

Wolpert reveals the source of his knowledge: "All that we know about the early Aryans", he says, "was preserved through oral tradition by their

priestly bards, Brahmans, whose heirs painstakingly memorized thousands of Sanskrit poetic hymns considered sacred, eventually recording their scripture in ‘Books of Knowledge’ called Vedas, most important of which is the Rig” (ibid., 27). But then “all that we know” turns out to be not very much as he adds that the *Vedas* “report nothing about the pre-Indian history of the Aryans, nor do they say anything specific concerning the Aryan conquests or Indus Valley civilization, except for a few references to ‘dark’ (*dasa*) peoples who lived in ‘fortified cities’ (*pur*) and had to be ‘subdued’” (ibid., 28). In other words, the only source on the basis of which Wolpert makes these claims are texts that do not contain any references to the things he reads in them.¹ Regardless of the reasons why the *Vedas* are not historical accounts, we can conclude that none of the claims of Wolpert has any textual or historical ground. Moreover, if what he says is true then a large part of the Indian society has to thank its low position to a weakness handed down over generations, dating back to their original defeat by the Aryans. The only cause of their inferior position, if we accept Wolpert’s account, is their weakness as a people to resist the laws and religion of a “superior” people. Of course, this “superiority” can only be “civilizational” today, given that neither archery nor horses plays much of a role in the twenty-first century India.

In Wendy Doniger’s book on the Hindus, we find a similar account. Aware of the recent controversies about the Aryan theories, Doniger is critical of the notion of the “Aryans” and prefers to speak of the “Vedic people” instead. The latter is defined as the community that composed the *Vedas* (Doniger 2009, 90). Apart from this cautious signal, her account of Indian history is very similar to Wolpert: the Vedic people is the conqueror that relegated the indigenous inhabitants, the *dasas*, to the lowest social position in the caste system (ibid., 116–117).

The Vedic people at first distinguished just two classes (*varnas*), their own (which they called Arya) and that of the people they conquered, whom they called Dasas (or Dasyus, or, sometimes, Panis) . . . The early Veda

¹ The translation of *dasa* as “dark” is not correct. It is a shortcut rooted in the nineteenth century interpretations of the Vedic descriptions of *dasyus* as “dark”, but the meaning of the darkness itself should be discussed properly (see Hock 2005, 286–290).

expresses envy for the Dasas' wealth, which is to say their cattle, but later, 'Dasa' came to be used to denote a slave or subordinate, someone who worked outside the family, . . . (ibid., 116–117).

In other words, according to Doniger, the original inhabitants of India were first conquered and then enslaved by the Vedic people. These people are also regarded by her as the ancestors of the *shudras*. The foundation of this system is traced to the Vedic account of the sacrifice of the Primeval Man (in the *Purushasukta*). According to her interpretation of this hymn, the feet of the primeval man, which she considers to be “the lowest and dirtiest part of the body”, became “the servants (Shudras), the outside class within society that defines the other classes” (ibid., 118).

Of course, feet are not necessarily dirty and if a body is lying down – as it is during a sacrifice – it is not the lowest part of the body either. In other words, the verse itself does not claim nor imply a low position of the *shudras*. Let us now consider Doniger's depiction of the *shudras*. Here she tells us that the *shudras* are an outside class, which means they are outside of society, while being a part of the society at the same time. It is not possible that they are both outside and inside of society at the same time, unless “being a part of the society and being outside it” refer to two different aspects of society. The question then is what they are outside of? In the absence of further clarifications, the only way we can understand this is that the *shudras* are part of society in the sense that they live in it and are outside of it in the sense that they do not play a role in society other than being servants. Or, they are a part of society but are not allowed to participate in it the way the other classes are. From this position, Doniger adds, they “define the other classes”. Thus, they show who the inside classes are defined negatively: everyone except themselves. Even though this still does not tell us what exactly the *shudras* are outside of, we do learn that their low position involves some kind of an exclusion from a significant aspect of society. This exclusion, we also learn, goes back a few thousands of years ago, when they were added to the society of the conquering Vedic people. Here is how she knows this: “That the Shudras were an afterthought is evident from the fact that the third class, Vaishyas, is sometimes said to be

derived from the word for 'all' and therefore to mean 'everyone,' leaving no room for anyone below them – until someone added a class below them" (ibid., 118).

Apparently, this is an evidence enough for Doniger. The problem with this argument, however, is that it is not so evident. If what Doniger says is true, that is, if the term "*Vaishya*" indeed meant "everyone" and if it did refer to one of the groups in the social structure of the Vedic people, then "everyone" would also have left no room for those above them, not only for those below. In that case the *brahmanas* and the *kshatriyas* would also have been an "afterthought" or classes that were added later on. This is unlikely given the central role that is ascribed to the *brahmanas* as the priests of the Vedic people and originators of the caste system.

Having "established" that the *shudras* were a later addition, Doniger then speculates about who they were: "The fourth social class may have consisted of the people new to the early Vedic system, perhaps the people already in India when the Vedic people entered, the Dasas, from a system already in place in India, or simply the sorts of people who were always outside the system" (ibid., 118).

Let us consider these different possibilities and what they tell us about the ancestors of the *shudras*. In each case, the *shudras* consist of people newly introduced to the Vedic system. Perhaps, as she says, these people were the *dasas*, who either entered the Vedic system leaving their own system behind, or entered without being a part of any system before. If the latter is the case, that is, if they were indeed people who were always outside "the system" then it is up to Doniger to explain why they entered the Vedic system. In both cases, an explanation is required as to why the newly encountered people either "joined" a system for the first time or abandoned their own system. In the absence of such an explanation, why should we assume that they were forced to enter it and stay there? Doniger does not refer to the use of any force in this regard. This leads us to assume further that there was no need for using force because the *dasas* were simply too weak to resist the Vedic people and their system. Another possibility is that the Vedic system had a dynamic of its own that automatically drew in new people and provided them an inferior position. First, nobody so far has indicated such a dynamic

and second, one would need to explain why many other newcomers, such as for instance the Mughals, were not automatically drawn in and reduced to an inferior position. If one relies on the strength of the Mughals (either in terms of their weapons, wealth or their “system”) to account for the fact they did not become part of the Vedic system, then the appeal is once again to the relative weakness of the *dasas* in order to explain why they were drawn in whereas others were not. A third possibility is that there was something extremely attractive to the Vedic system, attractive enough to draw people in despite awarding them a low position. Again, however, this only applies to some newcomers and transforms the *dasas* into idiots because they are attracted to something that makes them inferior.

The only conclusion we can draw on the basis of what Doniger tells us is that the Vedic people were more successful in establishing their social system in India than the people who had lived there. Not only were the Vedic people strong enough to make their social system prevalent but they also imposed it on others and reduced them to an inferior position.

In other words, the *shudras* are seen as the descendants of an original people of India that could easily be subdued and subordinated to the authority of the Vedic people to such an extent that the former willingly accepted an inferior position in society. The only ground that Doniger provides for this thesis is a weak consideration, which is based on a possible interpretation of the meaning of the term “*vaishya*”. In the absence of further explanations for the success of the Vedic people to subordinate the *dasas*, or references to the strategies that the Vedic people used to maintain their position, we are to assume a relative weakness of the *shudras vis-à-vis* the Vedic people. If we accept that people in India today still live according to the Vedic system of caste division, we are once again forced to conclude that this weakness has been handed down over generations along with their inferior social position.

A last example of the Aryans in the contemporary literature on the Indian culture is *A History of India* written by Kulke and Rothermund. These authors speak about the “immigration and settlement of the Indo-Aryans (IA)” and call it a “major historical event” that occurred in the second millennium BC, the early history of the South Asian

subcontinent, “after the rise and fall of the Indus civilization”. The Aryans, they say, were a “semi-nomadic people which called itself *Arya* in its sacred hymns came down to the north-western plains through the mountain passes of Afghanistan” (Kulke and Rothermund 2010, 12). Aware of the controversy about the Aryan Invasion Theory (AIT) (which we will discuss next), these authors mention that there are several standpoints about the Aryan arrival into India: either it was an immigration, they say, *or* a conquest *or* it happened through waves of immigration. They even suggest that the Aryans could have been indigenous to India. Their own position includes two waves of Aryan immigrations and a conquest. The first wave of Aryan immigrations, they say, consisted of IA groups, some of whom might have come in earlier periods and thus account for the IA elements in the Harappan civilization. The IA groups are said to have been absorbed into the Indus civilization and: “may have become the upholder of an Indo-Aryan cultural synthesis, combining Indo-Harappan (and therefore perhaps also Dravidian) elements with their central Asian Aryan heritage. It is quite likely that this population was responsible for the continuity of certain traits of Harappan civilisation like the worship of animals and trees which changed and enriched the Vedic culture during the subsequent two millennia” (ibid., 13).

The second wave, the authors tell us, was the (later) Rigvedic people of whom the former might or might not be the ancestors. This Vedic people, they further recount, invaded the indigenous people of India slowly and gradually: “The victories of the Vedic people over the indigenous population of northwestern India must have been due to their fast two-wheeled chariots, especially helpful in this dry and flat region, . . . In spite of their strategic superiority the Vedic people did not sweep across the Indian plains in a quick campaign of universal conquest. They extended their area of settlement only very slowly. This may have been due to environmental conditions as well as to the resistance of the indigenous people. Moreover, the Vedic Aryans were not the disciplined army of one great conqueror. They consisted of several tribes which frequently fought each other” (ibid., 15–16).

The sources about these Vedic victories are the Vedas themselves. Vedic hymns in which Indra or Agni fight the *dasas*, for instance, are

taken as a proof of fights between the Vedic people and the indigenous Indians. On the basis of such hymns, these authors say that “the dark-skinned indigenous people who are referred to as Dasas or Dasyus in the Vedic texts were depicted as the ubiquitous foes of the Aryans” (ibid., 15–16).

In the final stage of the composition of the *Rigveda*, Kulke and Rothermund tell us, the Vedic Aryans moved deeper into India to the region of the Ganga-Yamuna Doab (ibid., 17). This, they say, brought about a change from semi-nomadic life to settled agriculture which was accompanied by constant fights. This period is referred to as the Late Vedic Age.

Settled life, they continue, produced a great deal of social change, of intensified conflict with the indigenous population and of internal stratification of the Aryan society, which brings us to the “[s]ocial differentiation and the emergence of the caste system” (ibid., 18). According to Kulke and Rothermund, internal stratification had already existed among the early Vedic tribes, between the ordinary free members of the tribe and the warrior nobility. And the *brahmanas* as priests were also mentioned as a distinct social group in the Early Vedic texts (ibid., 19). But,

[w]hen the semi-nomadic groups settled down they established closer relations with the indigenous people who worked for them as labourers or artisans. Colour (*varna*) served as the badge of distinction between the free Aryans and the subjugated indigenous people. Varna soon assumed the meaning of ‘caste’ and was applied to the Aryans themselves in order to classify the strata of priests, warriors, free peasants and the subjugated people. A late hymn of the *Rigveda* contains the first evidence of this new system. It deals with the sacrifice of the mythical being Purusha and the creation of the universe and of the four *varnas* and assumed great normative importance for the ordering of Hindu society and legitimising the position of the Brahmin priests at the apex of the social hierarchy (ibid., 19).

Again the original social stratification of the four *varnas* is described in terms of a free group and a subjugated group, the former being the Aryans and the latter the indigenous people of India. Here too the only ground that is given in support of this historical account is the *Rigvedic Purushasukta* verse.

A Conquest Without an Invasion?

We already said that the centrality of the Aryans in the descriptions of the Indian culture in general and the caste system in particular leads us to expect more literature on how this all happened. Without an evidence-based and reasonable explanation of how the Aryans succeeded in establishing a system that reduced the indigenous population of India to a lower position in society, there is no ground to retain this account. We did not find such an explanation in the Indological literature, but what about the literature provided by those domains that deal with the ancient past of cultures: linguistics, archaeology and more recently also genetics? The latter, we expect to provide the scientific ground for the overviews of the development of the Indian culture, or at least to show why it is reasonable to accept them. This, it turns out, is not the case. Instead, what we find in these domains are studies revolving around one single question: *where did the Aryans come from?*

This question, moreover, is not related to an effort to understand the Aryan impact on the Indian culture. Nor did it arise from any observed problems or inconsistencies in the descriptions of the Indian culture or the Aryan role in it. Instead, it finds its origin in criticisms of the claim that the Aryans originally came from outside the Indian subcontinent. Some of these criticisms have sound academic grounds. It has, for instance, been shown by archaeologists and studies into the genetic structure of the Indian population that an invasion could not have taken place in India. Other criticisms apply to the notion of “the Aryans” and the difficulty in identifying them in the historical record. Apart from these problems, there are also criticisms that are less scientific or even political in nature. As a result, the debate over the origin of the Aryans has become highly politicized. The party that claims an Indian origin for the Indo-Aryan civilization is tied to the agenda of Hindu nationalism and it rejects the AIT as a Eurocentric misconception and colonial imposition. Its opponents, on the other hand, claim to fight the Hindu nationalist misrepresentation of history but are often no more scientific, and in some cases even as ideological as their opponents, when

it comes to linking their linguistic, archaeological and other scientific evidence to claims about the Aryans as a people.

So, on the one hand, there is an account, the Aryan invasion or immigration theory, which is being reproduced as though it is self-evident and self-illuminating. On the other hand, there is a controversial debate about only one aspect of this account, *viz* the origin of the Aryans. In other words, the criticisms of the AIT are limited to the idea of a foreign origin of the Aryans. They neither apply to nor affect the theses about the role this people is supposed to have played in the development of the Indian culture let alone of the caste system. As it is the latter that interests us here, we will not go deeper into the different arguments and evidences that have been given over the last decades about the supposed birthplace of the Aryans. What is interesting for our purposes, though, are some of the discoveries that have been made in the framework of this debate. One such is the problematic nature of the idea of an *invasion*. As we said, archaeologists and experts in human genetics have shown that the large-scale invasion postulated by the AIT could not have taken place on the Indian soil. With this, one of the core aspects of this theory has been discarded. It also gives us a negative answer regarding the question how the Aryans were able to have had the impact they are said to have had: it could not have been through invasion or conquest. Even though this has not completely seeped through to other domains dealing with India, such as Indology, it can no longer be denied in those domains that deal with the study of the ancient past.

Regardless of which philosophy of science one adheres to, we can say that the refutation of one of the core elements of a theory creates a problem for that theory as a whole. No matter how one solves this problem, the solution should not be *ad hoc* in the sense that it is constructed only to account for the recalcitrant phenomenon. With this in mind, let us look at the way scholars have dealt with the problem of the non-occurrence of an invasion.

The first alternative, the Aryan Migration Theory (AMT), solves the problem by claiming that the Aryans came to India and did the same things claimed by the AIT but through peaceful immigration: they imported the Indo-Aryan languages, Vedic religion and the hierarchical

social structure and imposed these on the local population. In the process, the caste system that put the Aryans on top of society and the original population at the lowest rung of the system was established. In other words, this alternative comes down to little more than a change of terms: instead of “invasion” one now uses the term “immigration”.

The second alternative has been called the “Out of India Theory”. This theory claims that an invasion never occurred because the Aryans originated in India itself and moved out from there to other parts of the world. Even though this alternative appears to be a radical opposite to the AIT, it does not differ much from the AMT. Studies in support of the Out of India Theory are mostly concerned with disproving the foreign origin of the Aryans and proving that the Vedic tradition is indigenous to India. The description of the Aryans and their dominant role in the Indian culture are largely accepted. In these accounts, the Aryans are still the people who gave India its religion, language and caste system. The main difference between the “Out of India” theories and the AIT/AMT lies in the fact that in the former the existence of another indigenous population or their subjugation, and hence the origin of the caste system is largely absent. For this reason we will leave this alternative out of the picture here and focus only on the first alternative, the AMT.

If we accept that it is possible to replace the term “invasion” by “immigration” without changing anything else to the Aryan theory, then we can reformulate the thesis as follows: the Aryans were able to impose their culture, language, religion on an indigenous population, and in the process reduce the latter to an inferior position, without the use of military force. In other words, the Aryans subordinated the *dasas*, converted them and imposed their language in a peaceful way. *How were they able to do this?* What made the indigenous population of India take over an alien language, religion and social structure that made them inferior?

So far, I have encountered only two scholars who have addressed this question. The first is Koenraad Elst, who answers the question negatively by saying that they could not have managed to impose their culture, language, religion and social structure on the indigenous population without conquest. Even though the different versions of the Aryan migration theories speak of an immigration, he argues, they nevertheless *imply* an invasion or at least the use of military force. In order to acquire

a position in which they could impose their language and culture on an existing population, they would first need to become the ruling class and if they had to do this peacefully they would first have needed to become proficient in the existing languages in India, which did not happen according to the AMT. “So how”, he asks, “could these Aryan immigrants first peacefully integrate into Harappan or post-Harappan society yet preserve their language and later even impose it on their host society? Neither their numbers, relative to the very numerous natives, nor their cultural level, as illiterate cowherds relative to a literate civilization, gave them much of an edge over the natives.” According to him, “the only plausible way for them to wrest power from the natives must have been through their military superiority, tried and tested in the process of an actual conquest” (Elst 2005, 235). But then, it has been shown that an invasion could not have taken place. For him, this inconsistency is one of the reasons to reject both the AIT and the AMT and to argue that it is more plausible that the Aryans were indigenous to India.

The second approach to this question I have encountered is by the expert in Indian rituals Frits Staal. He suggests that the migrating Aryans, one of the tribes mentioned in the *Vedas*, must have been much smaller in number than the indigenous population, the people of the Indus civilization. Not only were they smaller in number, the Aryans “came trickling in over many centuries” (Staal 2008, 18). His hypothesis is this: the indigenous population of India took over an alien religion, language and culture because of two things: (a) the disintegration of the Indus Valley had left behind a “gap into which anything could fall and disappear” and (b) the “power of mantra” of the *Vedas*. Let us consider this hypothesis in detail:

The Indus Civilization . . . was weakened and exhausted by the time the first so-called ‘family books’ of what was later called the *Rigveda* appeared on the scene . . . They [the *Vedas*] would not have attracted anyone’s attention had not the Indus Civilization left a large gap into which anything could fall and disappear. Thus was Vedic added to many Indian languages already spoken – but it did not disappear. On the contrary, its impact deepened and the seeds were sown to produce what with hindsight we have come to regard as ‘Vedic civilization’, a new *Oral Tradition* (ibid. 15).

If there was a “large gap into which anything could fall and disappear”, why did the *Vedas* not suffer from the same fate? If the *Vedas* were accepted as the new foundation of society by a people that had never heard of these texts before, there must have been something very convincing about these *Vedas*. This was indeed the case, Staal suggests: the “power of mantra”. This power was attributed to the Vedic seers who were also their poets and sages (ibid., 15–16). What made the Vedic mantra so powerful? Staal does not answer this question. In that case, we are left with a circular reasoning: the Vedic mantra was powerful because the *Vedas* were accepted and the *Vedas* were accepted because of the power of the Vedic mantra. Unless Staal wants to attribute magical powers to the Vedic mantra there is a problem: unless the people that adopted the Vedic tradition were familiar with traditions similar to the Vedic tradition or some aspects of it, they would not have been able to recognize the “power” of the Vedic mantra. In other words, there must have already been a shared culture that allowed the *Vedas* to have such a huge impact. In that case, the influence of the Aryans disappears. If none of the aspects of the Vedic tradition were familiar in India at that time, why would people spontaneously take over the tradition of a handful of people? The Vedic mantra, after all, is not agriculture. For several centuries now, Western scholars have studied the *Vedas* but without recognizing the “power of mantra”. Neither have they taken over the “Vedic culture” in spite of its supposed power. If people from the Western culture have not recognized “the power of the mantra” after three hundred years of studying it, what enabled the people living in India to do so? One possibility is that they shared a common culture, or at least a culture that was similar enough to make a tradition like the Vedic one intelligible and accessible. In other words, the *Vedas* might have been new and composed by a small number of people but the culture of which they were a part could not have been new. If that is the case, the *Vedas* cannot represent the culture of a separate people.

Staal is one of the very few authors who takes the question of the Aryan influence (without an invasion) seriously. For others, like Witzel, it is sufficient to argue that the Aryans could not have been indigenous to India. The rest happened “somehow”: “The ‘Aryan question’ is concerned with the immigration of a population speaking an archaic Indo-European

(IE) language, Vedic Sanskrit, who celebrate their gods and chieftains in the poems of the oldest Indian literature, the Rigveda, and who subsequently spread their language, religion, ritual, and social organization throughout the subcontinent” (Witzel 2005, 341). “[I]t is important to note that not only the Vedic language but the whole complex material and spiritual culture *has somehow been taken over and absorbed* in the northwest of the subcontinent” (Witzel 1999, 389–390; emphasis added).

If we believe Witzel, the pre-Aryan population of India was simply waiting for the Aryans to arrive and bring them civilization, willing to accept everything that came their way. This is highly unlikely. It becomes even more unlikely when we take into account that the only scientific evidence we have is about the presence of horse bones, spoke-wheeled chariots, certain kinds of pottery linked to the *Vedas* or related to the original home of the IE languages.² None of these facts allows us to postulate that the *shudras* of today owe their unchangeable inferior position in society to their ancestors who accepted this place a few thousand years ago from a people that brought them a civilization in return. Not only is the available evidence inadequate to make this claim, it is also inadequate to claim that the *Vedas* formed the foundation of a culture or civilization. On the basis of what we know about ancient India, it is far more likely that the Vedic tradition came into being as part of, or within, a culture that was taking shape in India among and across many different peoples, coming from different parts of the world, speaking different languages, using different utensils and having different arts and practices. It would be interesting to know more about the nature of this culture and how it came into being. But as long as scholars see Indian culture as founded in texts like the *Vedas*, or as a result of the interactions between two peoples and cultures, the real questions cannot even be formulated.

The question we want to address next is the following: Given the problems identified so far, how can we explain the persistence of the notion of the Aryans and their impact on the Indian culture? How can

² For an overview and analysis of the debate and the available evidence, see Bryant (2001).

we understand that the AIT is accepted and reproduced as a valid theory when one of its core aspects, the invasion hypothesis, has been refuted? And, in the case of the AMT, how can we understand its acceptance in the absence of additional theses about how the Aryans were able to have the impact they are alleged to have had without a conquest?

Christians and the Aryans

Several scholars have argued that biblical chronology was the conceptual framework for the postulation of the Aryans as a people. Scholars like Léon Poliakov (1971) and Thomas Trautmann (1997, 2006) argue that the idea of an Aryan people goes back to the biblical notion that each language is linked to a nation or a people's past.³ This idea played a central role in the Christian project of locating the people of the world within the biblical family tree of the children of Noah. Only when one assumes that every language is linked to a people does a relation between two languages indicate a relation between two people. The common source for all languages related to one original people, Bryant (2001) says, was embedded in "the biblical version of history, in which Noah's three sons, Japhet, Shem and Ham, were generally accepted as being the progenitors of the whole of humanity". Before Babel, there was "one human race speaking one language", which was then divided and dispersed over the earth. "This theme, even when stripped of its biblical trappings, was to remain thoroughly imprinted in European consciousness until well into the twentieth century" (Bryant 2001, 16).

As Trautmann (1997, 2006) convincingly shows, the study of Indian languages was also placed within this project. The main concern of the linguists who compared languages at the end of the eighteenth century was to trace the dispersal of the sons of Noah in time and space. Thus, when William Jones disclosed the link between Sanskrit, Latin and Greek in 1786 (Jones 1788, 415–431), he also postulated a connection

³ See also Arvidsson (2006); Bryant (2001); and Shaffer and Lichtenstein (2005).

between these languages and a lineage of nations. Jones was unambiguous about the project of tracing “all the nations” of the world back to the three sons of Noah. He approached the linguistic discoveries as evidence for a common ancestry for Indians and Europeans, whom he considered to be descendants of Ham (contrary to most of his contemporaries, who saw in the IEs the descendants of Japhet) (Jones 1807, 194–195).

But, what is often ignored is that Jones’ discovery only gave ground to claim that Indians and Europeans shared a common lineage in the biblical family tree. Jones cannot take the credit for the idea of an Aryan people. This is not only because this people was baptized as Aryans only a few decades later but also because the idea that the *brahmanas* and the *Vedas* represented a people was already in place, much before the discovery of the IE language family. The same goes for the speculations about the relation between this people and the other known people of the world. In the first half of the eighteenth century, several French clerical scholars had already speculated that the *brahmanas*, the “ancient inhabitants of India” or the representatives of “the Brahmanical faith” had originated as an ancient Egyptian colony. Father Catrou had reached this conclusion because of similarities between the “morals, religion and customs” of the *brahmanas* and those of the Egyptians (Catrou 1708; Huet 1727; La Croze 1724).

In 1777, Père Coeurdoux had proposed that the *brahmanas* were the progeny of Japhet. According to him, it was beyond doubt that India had known invasions of groups coming from the north and that one of these had brought the *brahmanas* and their religion to India (Murr 1987, 18). From the end of the eighteenth century onwards, scholars began to refer to “the Hindus”, the nation that was described as having the *brahmanas* as its priests and the *Vedas* as its sacred texts. Even though the discovery of the IE language family in this period gave rise to a proliferation of speculations about the origin of the Sanskrit-speaking people, this people continued to be called the “Hindu” or “Brahmanical” people and Sanskrit as the “Brahmanical” language or tongue.

Trautmann tells us that at some point, even at a time when the AIT was still acquiring its final form, the direct link between a people and a

language was discarded and scholars ceased to place the Indian people within the biblical family tree (Trautmann 1997, 194–198). What didn't cease, however, were the theories about an Aryan people or race. This can mean one of two things about the Christian influence on the idea of an Aryan people: either the Biblical idea of a direct link between peoples and languages only played a heuristic role and led to the discovery of an Aryan people, or the Biblical idea of the nation included more than a direct link between languages and people. From what we have seen above, the latter option seems to be the most likely one. The Biblical notion of a link between nations and languages also included a link of both with religion. With the rejection of the direct link between a nation and a language, the link between a religion and a nation was not rejected; neither was the link between a religion and a sacred language. As such, the *Vedas* could form the glue between Sanskrit and the Hindu nation or Aryan people when the direct link between the latter was discarded. None of this, however, explains the idea of an original people of India and even less why these are said to have been invaded and subjugated by the Aryans. For a long time, the “Hindu people” or nation were thought to include all Indians, so the question is about what changed.

Whereas the idea of a Hindu, Vedic or Brahminical people goes back at least to the early eighteenth century, the Dravidians and the AIT are products of the first half of the nineteenth century (early suggestions of an aboriginal people excluded). Generally, this is explained as follows: scholars discovered the existence of a language family different from the IE one and concluded that these were the languages of a different people, again based on the idea that all languages are directly linked to a people. But there are two problems with this explanation: (1) As we will see, the first formulations of the hypothesis of an invasion of the Brahminical people did not refer to the discovery of the Dravidian or another language family. (2) Even though the discovery of the Dravidian languages certainly played an important role in the establishment of the idea of a Dravidian people, it is still inadequate to explain the development of the invasion hypothesis.

Between Paris and Madras

The hypothesis of a “Hindu conquest of India” crystallized in two different locations in the early nineteenth century. The first was the select club of Orientalists at the *Société Asiatique de Paris*; the second was the circle of scholars around F. W. Ellis and Colin Mackenzie at the College of Fort St. George in Madras. These are the two places where the hypothesis crystallized but soon it was taken over by scholars all over Europe, including Germany.

The Invasion Hypothesis

An early instance of the idea of the invasion is found in *Historical Sketches of the South of India* by Colonel Mark Wilks (1810). Formerly a political resident at the Court of Mysore, Wilks was appointed as town major of Fort St. George, the capital of the Madras Presidency. Based on his readings of the “Laws of Manu” – the *dharmashastra* text identified by the British as the sacred law book of the Hindus – Wilks introduced the notion of a “Hindoo conquest”, which he saw as the cause behind the formation of the caste system. (Early nineteenth century scholars understood the following when they spoke of the caste system: a hierarchical social system established in religious laws that divides people into superior and inferior groups. This hierarchy is reflected in their social position and their privileges.) He referred to the traditional tale of a king who in “about 1450 years before Christ” had “reduced Hoobasica, a Hullia or Pariar king, and all his subjects, to a state of slavery, in which their descendants continue to this day”. According to him, this story gave “grounds” for a “conjecture which many circumstances will support, that these unhappy outcasts were the aborigines of India; and that the establishment of casts was not the effort of a single mind, but the result of successive expedients for retaining in subjection the conquests of the northern Hindoos; for they, also, are confessedly from the north” (Wilks 1810, 150–151). Wilks mentioned two nations or peoples, the Hindus as opposed to the aboriginal people they were supposed to have conquered; he identified the Hindus as the superior

castes of the caste system and imagined that the establishment of the caste system was the result of the Hindu conquest. Except for the traditional story, Wilks did not refer to any facts and failed to mention the “many circumstances” supporting his conjecture.

Some of the French Orientalists had come to similar conclusions in the first half of the nineteenth century in Paris, “the hub of oriental scholarship” during this period. In his *Monuments Anciens et Modernes de l’Hindoustan*, Mathieu Louis Langlès (1821) expanded on the thesis of an invasion. Langlès was a student of Silvestre de Sacy, the influential scholar and founding father of the *Société Asiatique de Paris*. The second volume of his work contained an elaborate essay on the religion, laws and customs of the Hindus, where he pitied them for being supplanted first by Muslim conquerors and then by English merchants, similar to the ancestors of the Hindus themselves, who “no doubt in a distant past, since the memory of it has been lost, had supplanted the indigenous inhabitants of India, of which the caste of Pariahs probably offers us the sad remains” (Langlès 1821, 170).⁴ Without giving evidence, Langlès described the Pariahs as the descendants of an indigenous population conquered by Hindu invaders; he never defended this claim about the Hindu conquest of an aboriginal people in terms of linguistic differences.

To Langlès these ideas appeared to reflect established facts. However, in a review article of the same work, published by Abel Rémusat in the *Journal des Savans* of 1822, it became clear how new this idea of a Hindu conquest of India actually was. Rémusat was a founding member of the *Société Asiatique* and would later become its president. In his review article, he mentioned the hypothesis of a foreign invasion as an idea “of little importance”, but noted that the hypothesis at least deserved some elaboration, “if only for the sake of its novelty”. Fascinatingly, Rémusat gave the following reason for retaining the hypothesis in spite of the lack of evidence: “This is without a doubt only a hypothesis, one that is strengthened by no historical monument whatsoever; but we have to agree that it offers a high enough degree of probability, and that it is

⁴ All citations from French works have been translated into English.

difficult to study the system of castes, and to investigate the origin of the laws that the two first [*castes*] attributed to themselves with regard to the last two [*castes*], without the idea of a conquest presenting itself to the mind, as a way to explain the excessive superiority of the ones and the extreme degradation of the others” (Remusat 1822, 224).

In the absence of any linguistic or archaeological facts that supported the hypothesis, Rémusat still considered the hypothesis unavoidable if one desired to understand the caste system.

Even where the hypothesis was questioned, its potential utility as an explanation of the origin of the caste system was admitted. In a review article of a translation of the *Lois de Manou*, Alexandre Langlois (1833, 142–155) another member of the *Société Asiatique*, wondered whether the laws of Manu and the caste system had been “imported by the colony that is to have come from the north-west to establish itself in India in a time beyond memory”. Have they, he asked, “been imposed on the indigenous people by a more powerful and enlightened conqueror? Or, are they the product of an Indian soil, the result of a slow and progressive civilization?” Given the fact that “the elements to decide on these questions may be missing for a long time to come”, Langlois favoured the hypothesis that the caste system emerged as a variant of the natural process of growth of all societies, albeit constrained by philosophy in the case of India (Langlois 1833, 143–144).

Similar remarks are found in the work of the renowned Orientalist and professor of Sanskrit at the Collège de France, Eugène Burnouf. In a lecture on the Sanskrit language and literature, Burnouf (1833, 251–272) presented the hypothesis that the Indians had once been “foreigners” to their own country. If this is the case, he added, it is probable that there had been original inhabitants of India, conquered by the currently dominant people. The most important and self-evident factual evidence for this claim, Burnouf said, was the caste system. According to Burnouf, the first thing every observer of India would notice was that underneath the “apparent unity” rests a variety of diverse cultural elements. The unity, he said, is provided by the religious and civil institutions that were spread by an enlightened race. The variety of cultural elements, on the other hand, reflected the remains of the native tribes and nations of India, which “had been forced to submit themselves to” the unity. For,

he argued, “those rejected castes at the lower ranks of the social hierarchy, are they anything else than the remnants of a conquered people?” (ibid., 268). Only then did Burnouf provide further “evidence” about differences in language, skin colour and customs between the higher and lower castes to support this connection between the caste system and the invasion of an alien people. It is important to note that Burnouf does not compare the skin colour, languages or customs of North and South Indians, nor of the speakers of Sanskrit derived vernaculars as opposed to speakers of other languages, but rather the differences between the lower and higher castes of India. The hypothesis he intended to defend is not the existence of two distinct races in India as such, but the claim that the lower and higher castes had originally belonged to two different races.

Similar tentative statements are found in a review article written on Neumann’s *Coup d’œil Historique, Sur les peuples de l’Orient*, published in *Journal Asiatique* (Anonymous 1834, 81–114). After stating that in the Indian legends of the *Puranas* and the *Itihasas* we look in vain for something that in the right acceptance of the word could be called history, the author goes on to say that we can nevertheless, “following the many traditions and the inductions of the culture and language, conclude with a very great probability that the conquering Brahmans left from the north and continuously spread out towards the south”. After he has stated the great probability of this conclusion he draws the following course of events: “When the barbaric indigenous princes, who had, sword in hand, opposed themselves to the new doctrine, had been annihilated or subjugated, large numbers of Brahmin colonies coming from the north arrived in the south; new families of rulers came up, and the whole population seems to have been consigned to the last two castes of the Indian society, or to the class of laborers and servants” (Anonymous 1834, 83).

Towards the middle of the nineteenth century, the hypothesis of the Aryan invasion had been accepted by most European scholars of Indian religion. Only occasionally did the lack of evidence bring scholars to doubt its truth. But even where they did so, they nevertheless failed to reject the hypothesis. One of these scholars was Mountstuart Elphinstone, the Governor of Bombay. In his influential work *The History of India*, Elphinstone (1841) considered the lack of evidence for the attribution of a foreign origin to the Indians. Nevertheless, he felt

compelled to acknowledge that the idea of an invasion was a very plausible explanation for the existence of the caste system. Based on his readings of the *Vedas* and the Laws of Manu, Elphinstone observed that “the three twice-born classes forming the whole community” were “embraced by the law”, while the *shudras* were “in a servile and degraded condition”. Yet, he pointed out, “it appears that there are cities governed by Súdra Kings, in which Bramins are advised not to reside” and that, as the code of Manu stated, “there are whole territories inhabited by Súdras, overwhelmed with atheists and deprived of Bramins” (Elphinstone 1841, 95). He considered it “impossible not to conclude from all this, that the twice-born men were a conquering people; that the servile class were the subdued aborigines; and that the independent Súdra towns were in such of the small territories, into which Hindostan was divided, as still retained their independence”. Given his doubts about the foreign origin, however, Elphinstone suggested that the conquerors could also have been a “local tribe like the Dorians in Greece” or “merely a portion of one of the native states (a religious sect for instance) which had outstripped their fellow-citizens in knowledge, and appropriated all the advantages of the society to themselves” (ibid., 96).

What do these formulations tell us about the theoretical framework to which they belong? What concepts and theories had to be present in order to find the invasion hypothesis “the most plausible explanation” or an “inevitable” hypothesis to arrive at? Let us take a closer look at the points these citations have in common.

(1) All these citations speak of the caste system as a social hierarchy, a system that determines a person’s position in society in terms of the higher and the lower: the *brahmanas* are higher than the *kshatriyas*, after whom come the *vaishyas*, followed by the *shudras* who in turn are followed by the outcastes or the Pariahs. The latter are so low as to be excluded from the system altogether. Even though all these castes are referred to when these authors speak of “the caste system”, it is not the respective difference in hierarchy between all of these caste groups that draws their attention. Instead, they make another division at a higher level of description: the first group consists of the first two or three castes (usually it is the first three but one of these authors speaks of only the first two), which they also call the “twice-born castes”. The second group consists of the *shudras* and the outcastes. The first group is considered to

be superior to the second group. In other words, the degree of superiority or inferiority is neither constant nor proportional. These authors see a big gap with regard to social inequality between the first and the second group. It is this distinction that they attempt at explaining. That is, not all the inequalities established by the caste system are considered to be in need of explanation. It is only the extreme social inequality between the first and the second group that comes out as a problem to be explained.

(2) Before we look into the explanations, let us consider what the respective superior and inferior position of both groups consists of, or what is meant when it is said that the *shudras* had an inferior position in society. Even though these citations rely on a characterization of the caste system not made explicit there, we do read several references to the respective states of being of the two groups. The second group's "extreme degradation" apart, they are alleged to be in a "state of slavery", having a "servile and degraded position" and are "rejected". The first group is described by Elphinstone as forming the "community as a whole" and "embraced by the law". They are also depicted as the three twice-born castes. This refers to the group that has undergone the *upanayana* ritual, which was understood by the Europeans as a ritual through which one becomes part of the Vedic community. Based on the readings of the Laws of Manu, Europeans thought that the *shudras* and the outcastes had no right to undergo this ritual and were, as such, excluded from participation in the Vedic community. That is why Burnouf says that the religious and civil institutions of the "enlightened race" provided a unity to Indian society that was only apparent but not real. If the religious and civil institutions of a society are what makes this society into a unit or a coherent whole, we can assume that these institutions organize the life of all members of society. If the unity is only apparent, this means that these institutions do not organize the lives of all members of society. The "variety" of Burnouf refers not to the mere existence of many cultural elements but also to the elements that would not exist in a society when the unity provided by the religious and civil institutions were to be real and not apparent. In other words, the first group forms the community organized according to the religious and civil institutions of that society. The second group consists of slaves who are rejected from this community. This is also in line with the concept of slavery. The most salient property of slaves is that

they are not free to organize their life themselves; nor are they allowed to participate in the way of living of their masters. The difference then between the first and the second or the superior and inferior group is that the former, even if not internally equal, are all free to organize their lives according to the religious and civil institutions of their society. The second group, on the other hand, does not have the freedom to live according to these institutions but is there only to serve the first group. They are “rejected” from participating in the religious and civil institutions or from being embraced by the law.

(3) We now have a better idea of what the superiority of the former and the inferiority of the latter refers to: the former are civilized because they have religious and civil institutions that organize their lives, the second are inferior because they have no access to these institutions. Neither do they have religious and civil institutions of their own. It is this situation, and not the existence of social inequalities in a society as such, that draws the attention of these nineteenth century Europeans as something in need of an explanation. If we call the phenomenon these authors seek to explain as the “social inequality” of the Indian society, this refers to a situation, where a part of society is excluded from social institutions. This social inequality is considered to be of a different kind than the inequalities between the first three castes.

(4) This brings us to their explanation: the two groups represent two different races (race, nation and people are used interchangeably during this period) and the first group has conquered the second one. If the existence of social inequality in a society can lead to the conclusion that the superior and inferior groups consist of two different peoples, races or nations, then this presupposes that social inequality cannot exist within the “same people”. Or, that within the same people no group is excluded from the community, that is, from the religious and civil institutions.

(5) The existence of social inequality, then, can point to the existence of two races or peoples. The fact that one race becomes superior and the other inferior is due to the respective strength of the civilizations of these two peoples. Burnouf, for instance, speaks of an “enlightened race”, as opposed to “tribes” and “almost nations”. That is, he speaks of tribes that had not even reached the state of nationhood before the arrival of the Brahminical race. Other scholars of that period speak of the aborigines as savage and

uncivilized. Some examples: Dr. Reverend Stevenson, a Protestant missionary working in the south of India, refers to the aborigines as “unlettered and uncivilized” and hence finds it plausible that the *rakshasas* and demons mentioned in the “ancient traditions of the Brahmins” refer to these original inhabitants of India (Stevenson 1839, 190–191). Another example is found in an article on *The Kulin Brahmins of Bengal* published in *Calcutta Review* in 1844 (Anonymous 1844). Here the author asks “who the original inhabitants” of India were even though he adds that this can “only be a question of conjecture”. As the author specifies, these “original inhabitants” or “aborigines” are the population living in India prior to the invasion of the “more civilized emigrants” or the “foreign colonists”. The latter are characterized by their religion “Hinduism” and their “Sanskrit literature”, viz., the “*Vedas*” and “*Puranas*”. The answer to this question seems to be a matter of preference or intuition rather than argumentation. The author is not willing to “believe” that the “existing occupiers of the soil are all descendants from the Aborigines”. Nor does he want to “admit” that they are all “colonists and emigrants”. Nor, he says, can it be “proved to anybody’s satisfaction” that the “wild hill tribes on the frontiers are the only relics of the first inhabitants”. Nevertheless, he considers the truth to “lie between these varying propositions”. Regardless of the fact that nothing seems to be based on any evidence, he finds the most likely candidates for the aborigines he is looking for in the people living in the “thickets of hills and mountain-fastnesses”. How is he able to identify them? This is how: they are “proper representatives of the people in their pristine condition” as opposed to the “more civilized emigrants”. In other words, the descendants of the aboriginal population are identified on the basis of their absence of civilization, for which the only mentioned criterion is the religion, viz., Hinduism, as found in the Sanskrit literature, of the “foreign colonists” (ibid., 3).

By the middle of the nineteenth century, the conjecture or hypothesis about the invasion of an aboriginal people had gradually acquired the status of fact. Thus, Max Müller, one of the most important Indologists of this period and regarded by some as the father of the AIT,⁵ suggests that the

⁵ Müller was the first to introduce the word “Arian” to designate the conquerors who brought the Vedic religion to India.

Rigveda and “Ramayana, Manu and Mahabharata” reveal the whole account of how the “Brahminical tribes” conquered India step by step and established and spread their rule. The “Arian tribes”, he says, “remained united by their common origin, by the ties of religion and of their sacred language”. The aboriginal inhabitants on the other hand, either fled to the refuge of the “thick forests of the mountainous districts, and in the south of the Vindhya range”, or “remained in a state of slavery, constituting the class of Sudras” (Müller 1848, 329–330; emphasis added). Müller adds another remark which shows that the theory about the Aryan race and their invasion was part of a bigger conceptual framework:

We generally find that it is the fate of the negro race, when brought into hostile contact with the Japhetic race, to be either destroyed and annihilated, or to fall into a state of slavery and degradation, from which, if at all, it recovers by the slow progress of assimilation. This has been the case in the north of India. The greater part of its former inhabitants have entirely vanished at the approach of the Arian civilization; some however submitted to the yoke of the conquerors, and many of these have, after a long time of slavery, during which they adopted the manners, religion and language of their superiors, risen to a new social and intellectual independence. The lower classes of the Hindus consist of those aboriginal inhabitants, and some of them continue still up to the present day in a state of the utmost degradation, living as outcasts in forests or as servants in villages (ibid., 348–349).

With the focus on the caste system and the idea that the first three castes belonged to a different race than the *shudras* and the outcasts, a range of other differences could now be plotted along to the same racial lines: difference in language use; difference in religion (when Stevenson saw signs of a different religions, for instance, he referred to them as non-brahminical religions, which indicate another people according to him); and difference in appearance and skin colour. All of these were now taken to signal the existence of two peoples that formed the upper and lower castes of the caste system. Whether the focus was on the social inequality of the caste system, on the difference in language, on the difference in looks or in the difference of religion, all these elements were related to each other as differences between two peoples where one had invaded the other and imposed its religion, law, language and customs on the other. In other

words, the conceptual framework of European scholars at the beginning of the nineteenth century included the idea that a difference in language not only implied two peoples, but also two religions (in different stages of degeneration), two systems of law (or customs when the laws had not yet been fully developed) and a difference in general “value” or state of civilization reflected in the social position of the respective peoples. If two peoples lived together it meant that the superior one had conquered the inferior people and subdued the latter to their own system of laws and religion.

Today, we want to suggest, these same ideas are what make the description of the caste system as an Aryan system of racial discrimination appear plausible enough to be reproduced in the absence of any evidence or explanations. The hypothesis presented in this chapter is that these notions are dependent on a set of Christian theological ideas from which they derive their intelligibility. For some of these ideas it has already been shown to be the case: S. N. Balagangadhara has shown, for instance, that the *Vedas* cannot be the sacred texts of Hinduism and that the claim that this is what they are is dependent on the Christian idea that God has given a sense of himself to the whole of mankind (Balagangadhara 2005). In the same way, the idea that Sanskrit was the sacred language of a specific people is dependent on the Christian idea that each nation has its own language with which it transmits its religion. One of the aspects that remains to be explored is the idea of social inequality and its relation to national and religious differences. What does it mean, for instance, to say that the *shudras* are not “embraced by the law” or are the “outside class within society”? It is our hypothesis that these ideas are also dependent on a Christian notion of the nation, but this is something that needs to be taken up in future research.

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8

Afterword

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If this book seems to raise more questions than it answers, we hope attentive readers will see that this is a failure of our times rather than the failure of this book. It should trouble us immensely that we are not in a position to answer any number of very pressing questions such as the following: What are *jatis*? What is the nature of relations between *jatis*?

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How do we understand the conflicts India has witnessed over the past few decades that have been dubbed ‘caste violence’? Are *jatis* a part of a ‘social system’ and in what sense may we use the term social system? We nevertheless hope that once the fact that we do not have a sound description of the Indian society sinks in, a new quest to understand India will arise, which will address the questions raised here.

Considering the novelty of the arguments presented in this volume, we conclude by rehearsing some of the basic propositions that have emerged from this research programme in relation to the caste system and answering some of the more basic questions that have often been raised about them.

Is There a Caste System in India?

Over the past century at the very least, it is an accepted fact among social scientists that ‘the caste system’ exists and it is an immoral and corrupt system. Even recent post-colonial scholars, who are willing to concede that the caste system was ‘constructed’ sometime since the colonial era, make this claim with the proviso that this construction is a *reality* today. The only task left for a researcher, then, is to describe it accurately. The authors of this volume, on the contrary, are saying that there is no unity in the sets of phenomena, which have been clubbed together and have been described as either component parts or causes or effects of the Indian ‘caste system’. More starkly put, *the caste system doesn’t exist*. We are aware of the fact that this starkly formulated claim has often been misunderstood. Hence, let us clarify the contention again.

The term ‘caste system’, or any of its cognates like ‘casteism’ and ‘caste problem’, as they are used today, refers to a score of discrete phenomena: rituals, the roles taken up by different groups during a ritual, festivals, institutions and their mores in relation to diverse groups, modes of wearing dress, food habits, economic and other problems, land relations, instances of exploitation, stereotypes, stories and so on. These discrete

entities were brought together to make a construct in the way Europeans (the West) experienced India.

In an attempt to explain this proposition, Balagangadhara (2012: 52–3) invites readers to imagine the following hypothetical situation: Let us say an alien comes to Earth and notices phenomena such as: grass is green, milk turns sour, birds fly and some flowers are fragrant. Perhaps the alien considers all these phenomena as organically related to each other and poses some kind of connecting framework provisionally called the ‘hipkapi’. The presence of ‘hipkapi’ not only explains the above phenomena but also how they are related to each other. In response to any questions about the existence of ‘hipkapi’, the surprised alien draws attention to its visible manifestations: the grass is indeed green, milk does turn sour, birds fly and so on. Each of these is manifestly a fact for all to see. When more like him come to earth and reiterate the presence of ‘hipkapi’, not only does ‘hipkapi’ become a synonym for these phenomena but also turns out to be their explanation. Thereafter, ‘hipkapi’ becomes self-explanatory and any questions about it become an expression of one’s idiocy: *What? You don’t know what hipkapi means!*

It is important to note that the suggestion here is not that the West provided descriptions of the social and cultural reality in India that were intentionally false and misleading. Rather, we suggest that the unity they created by bringing together the diverse ‘facts’ they observed is a unity *for* the West; that is, it is a unity in *their* experience of Indian culture. Yet, the unity posed between different phenomena brought together under the rubric of the ‘caste system’ has had serious consequences for India because this unity has gained the false status of a scientific theory that serves as the basic framework within which to understand Indian society.

One must also understand that the suggestion is not that ‘hipkapi’ is problematic because it brings some phenomena together and structures experience in a particular way. Or, to put it differently, we do not suggest that the ‘caste system’ does not exist merely because it is postulated. One cannot argue that ‘gravity’, to give but one example, is an imaginary structure just because it is postulated or because the concept brings phenomena together and structures experience. Gravity, as a concept embedded in theories in physics, does more: it explains,

solves problems, can be seen as a causal force, makes accurate predictions for phenomena and so on. 'Hipkapi', in contrast, does not perform any such labour. It merely lends some kind of stability to 'experience' by stringing some phenomena together. It is merely a name for a collection of phenomena and these 'acquire' a common structure merely because they are grouped together and are identified by one name.

Does the Claim that There Is No Caste System Involve a Denial of Any Event/Phenomenon in India?

As Balagangadhara explains:

By denying one set of theories about the caste system (or even all of them), I am not committed to deny any experience, whether they are horror stories or stories of oppression or whatever else. Furthermore, I am not even denying that jati practices cover many things: from commensality to marriages. These are issues for further empirical (which are these practices and where) and theoretical (what role do these practices play in sustaining and reproducing a social structure) investigation.

All I am committed to is the following claim: the dominant western story about 'the caste system' is false, if taken as an explanation of the Indian society.¹

This raises any number of extremely crucial research questions. Does it follow that the phenomena routinely brought together as 'the caste system' are unrelated to each other? Or is it the case that they simply have a different relationship to each other? First, these questions are for future research. Second, irrespective of our answers to them, the claim holds: The caste system, the entity constructed by the West, is an experiential entity only to the West and not to Indians. In this sense, the caste system is not a

¹ Ref. <https://beta.groups.yahoo.com/neo/groups/TheHeathenInHisBlindness/conversations/messages/3043>.

part of the Indian culture. It has no existence outside of the Western experience of India. The so-called caste-system, in this sense, does not exist.

Why Did the West See the Caste System?

Why did Western travellers, missionaries and administrators create such an entity, one may ask? As argued in some chapters of this volume, the background assumptions that came from the Western culture placed definite constraints on their understanding of India. They could only understand India in terms of the categories they had inherited. Therefore, we need not investigate their intentions or purported goals; we need not worry much about the 'agency' of the colonial or the native in producing this structure. The only kind of research that can shed light on why the West created the caste system is the kind that seeks to understand Western culture.

This requires that our scholarship focus on the received accounts about the caste system, how these accounts developed and how they were consolidated. For instance, De Roover's proposition that the ambiguity around a moral assessment of the caste system was completely replaced by a conviction of its immorality with the consolidation of the Protestant Reformation demonstrates that an empirical study of castes in India has nothing to contribute to understanding these Western characterisations of the caste system.

Yet, this book cannot and does not give comprehensive answers to the question why Westerners saw a caste system in India. However, what it does is to establish the centrality of this question to any study of the 'caste system'. This raises an additional question, which this volume has not addressed directly.

Why Do Indians See the Caste System?

That is, if the 'caste system' is a unit in the Western experience of India, why do so many Indians talk about it as though it describes their own experience? This research programme takes this question very seriously.

While exhaustive answers to it require much more research, Balagangadhara does provide the outlines of an answer in his hypothesis about colonial consciousness (Balagangadhara 2012, chap. 4).

It has practically become common-sense to say that colonialism is not simply a matter of political subjugation or taking over lands and extracting revenues or even capturing the imagination of the colonised by making them aspire to become like the West in clothes and habit. Colonialism runs much deeper. This is, after all, the insight that has generated the field of study called post-colonialism. Balagangadhara proposes, however, that in order to understand how colonialism continues to work in a post-colonial era, it is imperative to understand the nature of colonialism as an educational project. The first step in the way that colonialism developed was that it projected the descriptions it generated about other cultures as scientific knowledge about the world. Not only were these descriptions not 'scientific', they were also deeply embedded within the framework of the civilisational superiority of the West. However, as a crucial second step, the coloniser also explicitly undertook to 'educate' the colonised in this 'scientific knowledge' about the native culture. Learning the so-called 'scientific knowledge' about the native culture of the colonised necessarily involves imbibing the framework of the cultural and civilisational superiority of the West. It is this process that creates and sustains 'colonial consciousness'.

While we cannot go into too much detail about this here, it is crucial to raise just one more aspect of this process. Balagangadhara asks us to consider what happens to a child when she learns about scientific explanations for phenomena such as the bending of a stick in water or the perceived movement of the Sun around the Earth. Once scientific explanations for these phenomena are imbibed, the child can no longer access her earlier experience of 'seeing the stick bend'. She knows it is an illusion. In the case of scientific knowledge, it is valuable to have such a transformation of experience since it allows us to deal with our surroundings much more effectively. For instance, this kind of knowledge forms the first steps for the child to classify phenomena along relevant categories, predict outcomes from given material circumstances and, thereby, develop a much more complex understanding of her universe. However, the descriptions generated by colonialism are not of this

nature. Not only are they not scientific, they project a particular cultural experience as the truth about the world. When the colonised learn to see themselves in the way the coloniser describes them, they too lose access to their earlier experience of their culture. Their native culture is distorted in many ways, but most crucially, it is rendered as necessarily an immoral culture within these descriptions. As Balagangadhara notes, colonialism denies the colonised peoples and cultures their own experiences, by actively preventing descriptions of their own experiences except in terms defined by the colonisers. The colonised people thus become aliens to themselves (Balagangadhara 2012, chap. 4).

Thus, lay Indians, researchers, academics are all subject to the education they have received over centuries. This is not an easy legacy to shake. However, it is the primary challenge any serious researcher working on the caste system today has to face. What we see among the recent works on the caste system, instead, is their apologetic defence of a lack of clarity about the problem and the domain that the term ‘caste system’ refers to, coupled with the adamant insistence on ‘fighting it’. They begin with the assumption that ‘casteism’, even though they can give no coherent account of what it refers to, is immoral and barbaric, and therefore it should end. This is a basic feature of colonial consciousness as Balagangadhara describes it: the conviction that the native culture is immoral, coupled with the inability to provide a scientific description of the phenomena one is engaged in studying. It also follows, as has often been suggested by various scholars, that much of the influential work in the social sciences is ideological. Whether or not this is true of the social sciences as a whole, there is ample evidence that studies on the caste system and governmental policies (such as reservation), ‘prevention strategies’ and anti-caste activism are based on ideology rather than on scientific evidence. The message they give is more political than scientific.

The domain of caste studies, to use a contemporary analogy, is much like an instance of location-based augmented reality games, like *Pokémon Go* (www.pokemon.com). Once one starts playing the game, it is both rational and profitable to take the scenario created by the game ‘seriously’. In technical terms, such a scenario is called *mediated reality*, where technology modifies one’s current perception of reality. The modification may take any route (diminishing or augmenting one’s

perception of the reality) provided the content of the *modified reality* is overlaid on the *real world*. In this context, it is important to note that the Indian 'caste system' does more than *Pokémon Go* or 'hipkapi': to those who chant these holy syllables of 'caste', it is the purveyor of political, economic, social and intellectual gifts. This mantra, the Indian 'caste system', has generated a whole series of other equally holy syllables that perform miracles, like for example, those that generate the caste-based reservation system.

We must also realise that the chanting of these mantras comes at a cost. Our faulty theories of the caste system stand to actually *increase* unrest in society. The dilemma of the time is rather disturbing. On the one hand, sound social sciences, which work in the Indian context, are yet to be built. On the other hand, until such a time we cannot also make do with the current social science approaches to the so-called caste problems (with or without some modifications). Doing so has a heavy cost of letting those faulty theories remain as the bases for all kinds of practical decisions. What should one do in such a situation? We believe that here is only one way out at the moment: being constructively critical of our theories, policies and all that we employ in understanding and solving our problems. Our criticism of the current theories of the caste system should be understood in this light. Furthermore, it is from within such constructive criticisms of existing approaches that a science of caste will emerge.

This book, as it must be clear by now, is meant to encourage further research in the new field that it tries to establish. It is part of a concerted effort to bring caste under scientific scrutiny. Taking off from the research insights of S. N. Balagangadhara, who has been critiquing the Western Christian roots of scholarship on India, the book has made an attempt to show how the caste system became one building block in a much larger (and the only) story about India available today. The main hypothesis is that the dominant descriptions we have today are results of originally Christian themes and questions; they reflect European historical experiences and European thinking about society much more than the real state of society and its domestic understanding in India. This ambitious project, however, is surely much larger in scope than a book (or even a series of them), can handle. It is a task for a few generations of scholars. To this extent, this work is an attempt to generate this ambition in fellow scholars.

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